

6102

I N S E N A T E

(PREFILED)

January 4, 2012

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the New York city charter, the administrative code of the city of New York and the general city law, in relation to divesting the board of standards and appeals of its jurisdiction over matters relating to buildings and zoning; and repealing certain provisions of the New York city charter and the administrative code of the city of New York relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 5, 6, 7, 8, 9, 10 and 11 of section 666 of the
2 New York city charter, subdivision 5 as amended by local law number 102
3 of the city of New York for the year 1977, the opening paragraph and
4 paragraph (b) of subdivision 6 as amended by a vote of the people of the
5 city of New York at the general election held in November of 1988, para-
6 graph (a) of subdivision 6 as amended by local law number 39 of the laws
7 of 2008, paragraph (c) of subdivision 6 and subdivisions 7, 10 and 11 as
8 amended by a vote of the people of the city of New York at the general
9 election held in November of 1989, subdivision 9 as amended by a vote of
10 the people of the city of New York at the general election held in
11 November of 1975, and subdivisions 5, 6, 7, 8, 9, 10 and 11 as renum-
12 bered by local law number 49 of the city of New York for the year 1991,
13 are amended to read as follows:

14 5. [To determine and vary the application of the zoning resolution as
15 may be provided in such resolution and pursuant to section six hundred
16 sixty-eight.

17 6.] To hear and decide appeals from and review,

18 (a) [except as otherwise provided by law, any order, requirement,
19 decision or determination of the commissioner of buildings or of a depu-
20 ty commissioner of buildings or any borough superintendent of buildings
21 acting under a written delegation of power from the commissioner of
22 buildings filed in accordance with the provisions of section six hundred
23 forty-two or section six hundred forty-five of this charter, or

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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(b)] any order, requirement, decision or determination of the fire commissioner or any rule or regulation or amendment or repeal thereof made by the fire commissioner, or

[(c)] (B) any order, requirement, decision or determination of the commissioner of transportation or the commissioner of ports and trade made in relation to the structures or uses on water front property under his or her jurisdiction in connection with the application or enforcement of the provisions of [the zoning resolution of the city of New York,] the labor law and such other laws, rules and regulations as may govern the construction, alteration, maintenance, use, occupancy, safety, sanitary conditions, mechanical equipment and inspection of structures in the city, under the authority conferred upon them by law, by reversing or affirming in whole or in part, or modifying the order, regulation, decision or determination appealed from, and to make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have the power of the officer from whose ruling the appeal is taken, and of any officer under whose written delegation of power such ruling was made.

[7. In passing upon appeals, to vary or modify any rule or regulation or the provisions of any law relating to the construction, use, structural changes, equipment, alteration or removal of buildings or structures, or vaults in sidewalks appurtenant thereto, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the law, so that the spirit of the law shall be observed, public safety secured and substantial justice done, provided that the provisions of the housing maintenance code and of any regulation or order issued under such code may be varied or modified only to the extent permitted by such code and only in the manner and subject to the conditions therein specified.

8.] 6. To review, upon motion of any member of the board, any rule, regulation, amendment or repeal thereof, and any order, requirement, decision or determination from which an appeal may be taken to the board under the provisions of this chapter or of any law, or of any rule, regulation or decision of the board; but no such review shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified. The provisions of this chapter relating to appeals to the board shall be applicable to such review.

[9. To afford an equal right to the city planning commission, community boards, and borough boards and lessees and tenants as well as owners to appear before it for the purpose of proposing arguments or submitting evidence in respect of any matter brought before it pursuant to the zoning resolution of the city of New York.

10. To issue such special permits as the board is authorized to issue under the zoning resolution.

11. To revoke or modify, upon due notice and hearing, variances and special permits previously granted under the zoning resolution if the terms and conditions of such grants have been violated.]

S 2. Section 668 of the New York city charter is REPEALED.

S 3. The New York city charter is amended by adding a new section 201-a to read as follows:

S 201-A. VARIANCES AND SPECIAL PERMITS. A. COMMUNITY BOARDS AND BOROUGH BOARDS SHALL REVIEW APPLICATIONS TO VARY THE ZONING RESOLUTION AND APPLICATIONS FOR SPECIAL PERMITS UNDER THE ZONING RESOLUTION PURSUANT TO THE FOLLOWING PROCEDURE:

1. EACH PROPOSAL OR APPLICATION SHALL BE FILED WITH THE CITY PLANNING COMMISSION, WHICH SHALL FORWARD A COPY WITHIN FIVE DAYS TO THE COMMUNITY

1 BOARD FOR EACH COMMUNITY DISTRICT IN WHICH THE LAND INVOLVED, OR ANY
2 PART THEREOF, IS LOCATED, AND TO THE BOROUGH BOARD IF THE PROPOSAL OR
3 APPLICATION INVOLVES LAND LOCATED IN TWO OR MORE DISTRICTS IN A BOROUGH.
4 2. EACH SUCH COMMUNITY BOARD SHALL, NOT LATER THAN SIXTY DAYS AFTER
5 THE RECEIPT OF THE PROPOSAL OR APPLICATION, EITHER NOTIFY THE PUBLIC OF
6 THE PROPOSAL OR APPLICATION, IN THE MANNER SPECIFIED BY THE CITY PLAN-
7 NING COMMISSION PURSUANT TO SUBDIVISION I OF SECTION ONE HUNDRED NINE-
8 TY-SEVEN-C OF THIS CHARTER, CONDUCT A PUBLIC HEARING THEREON AND PREPARE
9 AND SUBMIT A WRITTEN RECOMMENDATION THEREON DIRECTLY TO THE CITY PLAN-
10 NING COMMISSION, OR WAIVE THE CONDUCT OF SUCH PUBLIC HEARING AND THE
11 PREPARATION OF SUCH WRITTEN RECOMMENDATION.

12 3. A COPY OF A RECOMMENDATION OR WAIVER BY A COMMUNITY BOARD PURSUANT
13 TO PARAGRAPH TWO OF THIS SUBDIVISION THAT INVOLVES LAND LOCATED WITHIN
14 TWO OR MORE COMMUNITY DISTRICTS IN A BOROUGH SHALL ALSO BE FILED WITH
15 THE BOROUGH BOARD WITHIN THE SAME TIME PERIOD SPECIFIED IN SUCH PARA-
16 GRAPH. NOT LATER THAN THIRTY DAYS AFTER THE FILING OF SUCH A RECOMMENDA-
17 TION OR WAIVER WITH THE BOROUGH BOARD BY EVERY COMMUNITY BOARD IN WHICH
18 THE LAND INVOLVED IS LOCATED OR AFTER THE EXPIRATION OF THE TIME ALLOWED
19 FOR SUCH COMMUNITY BOARDS TO ACT, THE BOROUGH BOARD MAY HOLD A PUBLIC
20 HEARING ON THE PROPOSAL OR APPLICATION AND ANY SUCH RECOMMENDATION AND
21 MAY SUBMIT A WRITTEN RECOMMENDATION OR A WAIVER THEREOF TO THE CITY
22 PLANNING COMMISSION.

23 4. THE RECEIPT OF SUCH A RECOMMENDATION OR WAIVER FROM EVERY COMMUNITY
24 OR BOROUGH BOARD INVOLVED, OR THE EXPIRATION OF THE TIME ALLOWED FOR
25 SUCH BOARDS TO ACT, SHALL CONSTITUTE AN AUTHORIZATION TO THE CITY PLAN-
26 NING COMMISSION TO REVIEW THE APPLICATION AND TO MAKE A DECISION.

27 5. IF AFTER THE RECEIPT OF SUCH A RECOMMENDATION OR WAIVER FROM EVERY
28 COMMUNITY OR BOROUGH BOARD INVOLVED, OR THE EXPIRATION OF THE TIME
29 ALLOWED FOR SUCH BOARDS TO ACT, THE APPLICANT FOR A SPECIAL PERMIT OR
30 VARIANCE SUBMITS TO THE CITY PLANNING COMMISSION ANY ADDITIONAL DOCU-
31 MENTS OR PLANS, HE OR SHE SHALL AT THE SAME TIME FORWARD COPIES OF SUCH
32 DOCUMENTS OR PLANS TO THE COUNCIL MEMBER INVOLVED AND TO THE COMMUNITY
33 OR BOROUGH BOARD INVOLVED.

34 6. COPIES OF ANY WRITTEN INFORMATION SUBMITTED BY AN APPLICANT FOR
35 PURPOSES OF DETERMINING WHETHER AN ENVIRONMENTAL IMPACT STATEMENT WILL
36 BE REQUIRED BY LAW IN CONNECTION WITH AN APPLICATION UNDER THIS SECTION,
37 AND ANY DOCUMENTS OR RECORDS INTENDED TO DEFINE OR SUBSTANTIALLY REDE-
38 FINE THE OVERALL SCOPE OF ISSUES TO BE ADDRESSED IN ANY SUCH DRAFT ENVI-
39 RONMENTAL IMPACT STATEMENT SHALL BE DELIVERED TO ALL AFFECTED COMMUNITY
40 BOARDS AND BOROUGH BOARDS.

41 7. IF A MEETING INVOLVING A CITY AGENCY AND AN APPLICANT IS CONVENED
42 TO DEFINE OR SUBSTANTIALLY REDEFINE THE OVERALL SCOPE OF ISSUES TO BE
43 ADDRESSED IN ANY DRAFT ENVIRONMENTAL IMPACT STATEMENT REQUIRED BY LAW
44 FOR AN APPLICATION SUBJECT TO REVIEW UNDER THIS SECTION, EACH COMMUNITY
45 BOARD INVOLVED AND EACH BOROUGH PRESIDENT INVOLVED SHALL RECEIVE ADVANCE
46 NOTICE OF SUCH MEETING, AND EACH SHALL HAVE THE RIGHT TO SEND ONE REPRE-
47 SENTATIVE TO THE MEETING.

48 B. THE RECOMMENDATION OF A COMMUNITY BOARD OR BOROUGH BOARD PURSUANT
49 TO SUBDIVISION A OF THIS SECTION SHALL BE FILED WITH THE CITY PLANNING
50 COMMISSION. THE CITY PLANNING COMMISSION SHALL CONDUCT A PUBLIC HEARING
51 AND ACT ON THE PROPOSED APPLICATION. A DECISION OF THE COMMISSION SHALL
52 INDICATE WHETHER EACH OF THE SPECIFIC REQUIREMENTS OF THE ZONING RESOL-
53 UTION FOR THE GRANTING OF VARIANCES HAS BEEN MET AND SHALL INCLUDE FIND-
54 INGS OF FACT WITH REGARD TO EACH SUCH REQUIREMENT.

55 C. COPIES OF A DECISION OF THE CITY PLANNING COMMISSION AND COPIES OF
56 ANY RECOMMENDATION OF THE AFFECTED COMMUNITY BOARD OR BOROUGH BOARD

1 SHALL BE FILED WITH THE CITY PLANNING COMMISSION. COPIES OF THE DECISION
2 SHALL ALSO BE FILED WITH THE AFFECTED COMMUNITY OR BOROUGH BOARDS.

3 D. ANY DECISION OF THE CITY PLANNING COMMISSION PURSUANT TO THIS
4 SECTION MAY BE REVIEWED AS PROVIDED BY LAW.

5 S 4. Section 25-202 of the administrative code of the city of New York
6 is REPEALED.

7 S 5. The administrative code of the city of New York is amended by
8 adding a new section 25-114 to read as follows:

9 S 25-114 FEES. THE FEES HEREINBELOW SET FORTH SHALL BE CHARGED FOR THE
10 FOLLOWING APPLICATIONS, APPEALS, FILINGS AND REVIEWS:

11 1. ZONING VARIANCES. APPLICATION FOR ANY VARIANCE UNDER THE ZONING
12 RESOLUTION WITH RESPECT TO:

13 A. (1) INDIVIDUALLY OWNED ONE AND TWO FAMILY DWELLINGS: \$ 1,100.00.

14 (2) INDIVIDUALLY OWNED THREE FAMILY DWELLINGS: \$ 1,700.00.

15 B. OTHER BUILDINGS AND STRUCTURES (FEE SCHEDULE APPLICABLE TO SQUARE
16 FOOTAGE INVOLVED IN APPLICATION), AND JUNK YARDS, PARKING LOTS, AUTOMO-
17 TIVE SERVICE STATIONS AND OTHER SIMILAR USES (FEE SCHEDULE APPLICABLE TO
18 LOT AREA INVOLVED IN APPLICATION).

19 (1) 10,000 SQUARE FEET OR LESS OF FLOOR AREA OR LOT AREA: \$ 3,950.00.

20 (2) IN EXCESS OF 10,000 BUT NOT MORE THAN 20,000 SQUARE FEET OF FLOOR
21 AREA OR LOT AREA: \$ 5,480.00.

22 (3) IN EXCESS OF 20,000 BUT NOT MORE THAN 40,000 SQUARE FEET OF FLOOR
23 AREA OR LOT AREA: \$ 7,040.00.

24 (4) IN EXCESS OF 40,000 BUT NOT MORE THAN 70,000 SQUARE FEET OF FLOOR
25 AREA OR LOT AREA: \$ 8,560.00.

26 (5) IN EXCESS OF 70,000 BUT NOT MORE THAN 100,000 SQUARE FEET OF FLOOR
27 AREA OR LOT AREA: \$ 10,100.00.

28 (6) IN EXCESS OF 100,000 SQUARE FEET OF FLOOR AREA: \$10,100.00 FOR THE
29 FIRST 100,000 SQUARE FEET OF FLOOR AREA PLUS 5.0% OF SQUARE FOOTAGE IN
30 UNITS OF 10,000 SQUARE FEET ABOVE 100,000 SQUARE FEET OF FLOOR AREA.

31 (7) IN EXCESS OF 100,000 SQUARE FEET OF LOT AREA: \$ 11,200.00.

32 C. ALL OTHER APPLICATIONS FOR ANY ZONING VARIANCE UNDER THE ZONING
33 RESOLUTION NOT SUBJECT TO PARAGRAPH A OR B OF THIS SUBDIVISION: \$
34 5,480.00.

35 2. ZONING SPECIAL PERMITS. APPLICATION FOR ANY SPECIAL PERMIT UNDER
36 THE ZONING RESOLUTION WITH RESPECT TO:

37 A. (1) INDIVIDUALLY OWNED ONE AND TWO FAMILY DWELLINGS: \$ 1,000.00.

38 (2) INDIVIDUALLY OWNED THREE FAMILY DWELLINGS: \$ 1,570.00.

39 B. OTHER BUILDINGS AND STRUCTURES (FEE SCHEDULE APPLICABLE TO SQUARE
40 FOOTAGE INVOLVED IN APPLICATION), AND JUNK YARDS, PARKING LOTS, AUTOMO-
41 TIVE SERVICE STATIONS AND OTHER SIMILAR USES (FEE SCHEDULE APPLICABLE TO
42 LOT AREA INVOLVED IN APPLICATION):

43 (1) 10,000 SQUARE FEET OR LESS OF FLOOR AREA OR LOT AREA: \$ 2,960.00.

44 (2) IN EXCESS OF 10,000 BUT NOT MORE THAN 20,000 SQUARE FEET OF FLOOR
45 AREA OR LOT AREA: \$ 4,130.00.

46 (3) IN EXCESS OF 20,000 BUT NOT MORE THAN 40,000 SQUARE FEET OF FLOOR
47 AREA OR LOT AREA: \$ 5,280.00.

48 (4) IN EXCESS OF 40,000 BUT NOT MORE THAN 70,000 SQUARE FEET OF FLOOR
49 AREA OR LOT AREA: \$ 6,430.00.

50 (5) IN EXCESS OF 70,000 BUT NOT MORE THAN 100,000 SQUARE FEET OF FLOOR
51 AREA OR LOT AREA: \$ 7,580.00.

52 (6) IN EXCESS OF 100,000 SQUARE FEET OF FLOOR AREA: \$7,580.00 FOR THE
53 FIRST 100,000 SQUARE FEET OF FLOOR AREA PLUS 5.0% OF SQUARE FOOTAGE IN
54 UNITS OF 10,000 SQUARE FEET ABOVE 100,000 SQUARE FEET OF FLOOR AREA.

55 (7) IN EXCESS OF 100,000 SQUARE FEET OF LOT AREA: \$ 8,400.00.

1 C. APPLICATION FOR ANY SPECIAL PERMIT UNDER THE ZONING RESOLUTION NOT
2 SUBJECT TO PARAGRAPH A OR B OF THIS SUBDIVISION: \$ 4,130.00.

3 3. SPECIAL ORDER CALENDAR.

4 A. APPLICATION TO REARGUE OR REHEAR AN APPLICATION PURSUANT TO THE
5 RULES OF PRACTICE AND PROCEDURE OF THE DEPARTMENT OF CITY PLANNING:
6 \$1,850.00.

7 B. APPLICATION FOR AMENDMENT OF A VARIANCE OR SPECIAL PERMIT PREVIOUS-
8 LY GRANTED UNDER THE ZONING RESOLUTION WITH RESPECT TO:

9 (1) INDIVIDUALLY OWNED ONE AND TWO FAMILY DWELLINGS: \$440.00.

10 (2) INDIVIDUALLY OWNED THREE FAMILY DWELLINGS: \$920.00.

11 (3) ALL OTHER DEVELOPMENTS: \$2,110.00.

12 C. APPLICATION FOR AN EXTENSION OF TIME:

13 (1) TO OBTAIN A CERTIFICATE OF OCCUPANCY PURSUANT TO A RESOLUTION OF
14 THE DEPARTMENT OF CITY PLANNING: \$1,200.00.

15 (2) TO COMPLETE CONSTRUCTION PURSUANT TO SECTION 72-23 OR 73-70 OF THE
16 ZONING RESOLUTION: \$1,200.00.

17 D. APPLICATION FOR EXTENSION OF TERM OF A VARIANCE OR SPECIAL PERMIT
18 PREVIOUSLY GRANTED UNDER THE ZONING RESOLUTION WITH RESPECT TO INDIVID-
19 UALLY OWNED ONE, TWO OR THREE FAMILY DWELLINGS, OTHER BUILDINGS AND
20 STRUCTURES (FEE SCHEDULE APPLICABLE TO SQUARE FOOTAGE INVOLVED IN APPLI-
21 CATION), AND JUNKYARDS, PARKING LOTS, AUTOMOTIVE SERVICE STATIONS AND
22 OTHER SIMILAR USES (FEE SCHEDULE APPLICABLE TO LOT AREA INVOLVED IN
23 APPLICATION):

24 (1) INDIVIDUALLY OWNED ONE, TWO OR THREE FAMILY DWELLINGS: \$550.00.

25 (2) 10,000 SQUARE FEET OR LESS OF FLOOR AREA OR LOT AREA: \$2,370.00.

26 (3) IN EXCESS OF 10,000 BUT NOT MORE THAN 20,000 SQUARE FEET OF FLOOR
27 AREA OR LOT AREA: \$3,290.00.

28 (4) IN EXCESS OF 20,000 BUT NOT MORE THAN 40,000 SQUARE FEET OF FLOOR
29 AREA OR LOT AREA: \$4,220.00.

30 (5) IN EXCESS OF 40,000 BUT NOT MORE THAN 70,000 SQUARE FEET OF FLOOR
31 AREA OR LOT AREA: \$5,140.00.

32 (6) IN EXCESS OF 70,000 BUT NOT MORE THAN 100,000 SQUARE FEET OF FLOOR
33 AREA OR LOT AREA: \$6,060.00.

34 (7) IN EXCESS OF 100,000 SQUARE FEET OF FLOOR AREA: \$6,060.00 FOR THE
35 FIRST 100,000 SQUARE FEET OF FLOOR AREA PLUS 5.0% OF SQUARE FOOTAGE IN
36 UNITS OF 10,000 SQUARE FEET ABOVE 100,000 SQUARE FEET OF FLOOR AREA.

37 (8) IN EXCESS OF 100,000 SQUARE FEET OF LOT AREA: \$6,720.00.

38 (9) ALL OTHER APPLICATIONS: \$ 3,290.00.

39 E. APPLICATION TO WAIVE THE RULES OF PRACTICE AND PROCEDURE OF THE
40 DEPARTMENT OF CITY PLANNING WHEN:

41 (1) APPLICATION TO EXTEND TIME TO COMPLETE CONSTRUCTION IS FILED ONE
42 YEAR OR LESS AFTER THE PERMITTED FILING PERIOD: \$660.00.

43 (2) APPLICATION TO EXTEND TIME TO COMPLETE CONSTRUCTION IS FILED MORE
44 THAN ONE YEAR AFTER THE PERMITTED FILING PERIOD: \$920.00.

45 (3) APPLICATION TO EXTEND THE TERM OF A PREVIOUSLY ISSUED VARIANCE,
46 SPECIAL PERMIT OR APPEAL IS FILED ONE YEAR OR LESS AFTER THE PERMITTED
47 FILING PERIOD: \$1,180.00.

48 (4) APPLICATION TO EXTEND THE TERM OF A PREVIOUSLY ISSUED VARIANCE,
49 SPECIAL PERMIT OR APPEAL, IS FILED BETWEEN ONE AND TWO YEARS AFTER THE
50 PERMITTED FILING PERIOD: \$1,850.00.

51 (5) APPLICATION TO EXTEND THE TERM OF A PREVIOUSLY ISSUED VARIANCE,
52 SPECIAL PERMIT OR APPEAL, IS FILED MORE THAN TWO YEARS AFTER THE PERMIT-
53 TED FILING PERIOD: \$2,630.00.

54 (6) APPLICATION TO EXTEND THE TERM OF A PREVIOUSLY ISSUED VARIANCE,
55 SPECIAL PERMIT OR APPEAL, IS FILED MORE THAN TEN YEARS AFTER THE PERMIT-
56 TED FILING PERIOD: \$5,000.

1 F. APPLICATION FOR MINOR AMENDMENT THAT IS IN SUBSTANTIAL COMPLIANCE
2 WITH PREVIOUS GRANT: \$ 930.00.

3 4. APPEALS.

4 A. APPLICATION TO WAIVE SECTION THIRTY-FIVE OR THIRTY-SIX OF THE
5 GENERAL CITY LAW WITH RESPECT TO:

6 (1) ONE, TWO AND THREE FAMILY RESIDENCES, PER BUILDING PERMIT:
7 \$790.00.

8 (2) ALL OTHER RESIDENCES, PER BUILDING PERMIT: \$1,540.00.

9 (3) ALL OTHER BUILDINGS AND PROPERTIES, PER BUILDING PERMIT:
10 \$1,980.00.

11 B. APPEAL TO THE DEPARTMENT OF CITY PLANNING FROM OR APPLICATION FOR
12 REVIEW OF ANY ORDER, REQUIREMENT OR DETERMINATION OF THE COMMISSIONER OF
13 BUILDINGS OR OF ANY BOROUGH SUPERINTENDENT OF THE DEPARTMENT OF BUILD-
14 INGS; OR APPEAL TO THE BOARD OF STANDARDS AND APPEALS FROM OR APPLICA-
15 TION FOR REVIEW OF ANY ORDER, REQUIREMENT OR DETERMINATION OF THE FIRE
16 COMMISSIONER OR ANY RULE OR REGULATION OR AMENDMENT OR REPEAL THEREOF
17 MADE BY THE FIRE COMMISSIONER OR THE COMMISSIONER OF SMALL BUSINESS
18 SERVICES WITH RESPECT TO:

19 (1) ONE, TWO AND THREE FAMILY RESIDENCES, PER BUILDING PERMIT:
20 \$1,260.00.

21 (2) ALL OTHER RESIDENCES, PER BUILDING PERMIT: \$2,460.00.

22 (3) ALL OTHER BUILDINGS AND PROPERTIES, PER BUILDING PERMIT:
23 \$3,160.00.

24 C. APPLICATION TO VEST BUILDING PERMIT UNDER THE COMMON LAW DOCTRINE
25 OF VESTED RIGHTS WITH RESPECT TO:

26 (1) ONE, TWO AND THREE FAMILY RESIDENCES, PER BUILDING PERMIT:
27 \$940.00.

28 (2) ALL OTHER RESIDENCES, PER BUILDING PERMIT: \$2,460.00.

29 (3) ALL OTHER BUILDINGS AND PROPERTIES, PER BUILDING PERMIT:
30 \$3,160.00.

31 D. APPLICATION TO THE DEPARTMENT OF CITY PLANNING FOR AMENDMENT OF
32 PRIOR APPROVAL OF APPEALS FROM OR APPLICATION FOR REVIEW OF ANY ORDER,
33 REQUIREMENT OR DETERMINATION OF THE COMMISSIONER OF BUILDINGS OR OF ANY
34 BOROUGH SUPERINTENDENT OF THE DEPARTMENT OF BUILDINGS; OR APPLICATION TO
35 THE BOARD OF STANDARDS AND APPEALS OF PRIOR APPROVAL OF APPEALS FROM OR
36 APPLICATION FOR REVIEW OF ANY ORDER, REQUIREMENT OR DETERMINATION OF THE
37 FIRE COMMISSIONER OR ANY RULE OR REGULATION OR AMENDMENT OR REPEAL THER-
38 EOF MADE BY THE FIRE COMMISSIONER OR THE COMMISSIONER OF SMALL BUSINESS
39 SERVICES WITH RESPECT TO:

40 (1) ONE, TWO AND THREE FAMILY RESIDENCES: \$920.00.

41 (2) ALL OTHER DEVELOPMENTS: \$2,110.00.

42 5. APPLICATION FOR EXTENSION OF PERIOD TO COMPLETE CONSTRUCTION PURSU-
43 ANT TO SECTION 11-33 OF THE ZONING RESOLUTION:

44 A. ONE, TWO AND THREE FAMILY RESIDENCES, PER BUILDING PERMIT:
45 \$940.00.

46 B. ALL OTHER RESIDENCES, PER BUILDING PERMIT: \$ 3,690.00.

47 C. ALL OTHER BUILDINGS AND PROPERTIES, PER BUILDING PERMIT: \$
48 4,740.00.

49 6. EXEMPTIONS. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY IF A
50 MUNICIPAL DEPARTMENT OR AGENCY OF THE CITY IS THE APPLICANT OR APPELLANT
51 BEFORE THE DEPARTMENT OF CITY PLANNING OR THE BOARD OF STANDARDS AND
52 APPEALS.

53 7. OTHER. REQUEST TO OBTAIN OFF-SITE FILE OF PREVIOUS APPLICATIONS TO
54 THE DEPARTMENT OF CITY PLANNING OR THE BOARD OF STANDARDS AND APPEALS:
55 \$50.00.

1 S 6. Subdivision 2 of section 25-204 of the administrative code of the
2 city of New York, as amended by local law number 49 of the city of New
3 York for the year 1991, is amended and a new subdivision 3 is added to
4 read as follows:

5 2. An order, requirement, decision or determination made with respect
6 to or under the provisions of [section 26-127] TITLE TWENTY-SIX of the
7 code [and article eight of subchapter three of chapter one of title
8 twenty-six of the code.];

9 3. AN ORDER, REQUIREMENT, DECISION OR DETERMINATION REGARDING THE
10 APPLICATION OF THE ZONING RESOLUTION AS MAY BE PROVIDED IN SUCH RESOL-
11 UTION AND PURSUANT TO SECTION TWO HUNDRED ONE-A OF THE NEW YORK CITY
12 CHARTER.

13 S 7. The opening paragraph of subdivision a of section 200 of the New
14 York city charter, as amended by a vote of the people of the city of New
15 York at the general election held in November of 1989, is amended to
16 read as follows:

17 Except as provided in subdivision b OF THIS SECTION, any existing
18 resolution or regulation of the council, the board of estimate or of the
19 city planning commission to regulate and limit the height and bulk of
20 buildings, to regulate and determine the area of yards, courts and other
21 open spaces, to regulate density of population or to regulate and
22 restrict the locations of trades and industries and location of build-
23 ings designed for specific uses or creating districts for any such
24 purpose, including any such regulation which provides that [the board of
25 standards and appeals] ANY COUNCIL, COMMISSION, DEPARTMENT, OFFICER OR
26 BOARD may determine and vary the application of such resolutions or
27 regulations in harmony with their general purpose and intent and in
28 accordance with general or specific rules contained in such regulations,
29 may be amended, repealed or added to only in the following manner:

30 S 8. The opening paragraph, paragraph 2 and subparagraph e of para-
31 graph 3 of subdivision (b) of section 645 of the New York city charter,
32 the opening paragraph and paragraph 2 as added by local law number 29 of
33 the city of New York for the year 1977 and subparagraph e of paragraph 3
34 as amended by local law number 29 of the city of New York for the year
35 1979, are amended to read as follows:

36 With respect to buildings and structures, the commissioner shall have
37 the following powers and duties exclusively, subject to review only [by
38 the board of standards and appeals] as provided by law:

39 (2) to require that the construction or alteration of any building or
40 structure, including the installation or alteration of any service
41 equipment therein, shall be in accordance with the provisions of law and
42 the rules, regulations and orders applicable thereto; but where there is
43 a practical difficulty in the way of carrying out the strict letter of
44 any provision of law relating to buildings in respect to the use of
45 prescribed materials, or the installation or alteration of service
46 equipment, or methods of construction and where equally safe and proper
47 materials or forms of construction may be employed in a specific case,
48 he may permit the use of such materials or of such forms of
49 construction, provided that the spirit of the law shall be observed,
50 safety secured and substantial justice done, but he shall have no power
51 to allow any variance from the provisions of any law in any respect
52 except as expressly allowed therein, or from any appellate ruling [of
53 the board of standards and appeals];

54 e. every certificate of occupancy shall, unless and until set aside,
55 vacated or modified by [the board of standards and appeals or] a court
56 of competent jurisdiction, be and remain binding and conclusive upon all

1 agencies and officers of the city, and shall be binding and conclusive
2 upon the department of labor of the state of New York, as to all matters
3 therein set forth, and no order, direction or requirement affecting or
4 at variance with any matter set forth in any certificate of occupancy
5 shall be made or issued by any agency or officer of the city, or by the
6 department of labor of the state of New York, or any commission, board,
7 officer or member thereof, unless and until the certificate is set
8 aside, vacated or modified by [the board of standards and appeals or] a
9 court of competent jurisdiction upon the application of the agency,
10 department, commission, officer or member thereof seeking to make or
11 issue such order, direction or requirement. All such applications shall
12 be made in writing and filed with the [board or] court for hearing there-
13 on; and copies of the application and order, direction or requirement
14 sought to be made or issued shall be served upon the owner of the build-
15 ing or structure and upon the commissioner of buildings, if he is not
16 the applicant, and upon such terms and conditions as to service, notice,
17 time and place of hearing as the [board or] court shall direct;

18 S 9. Section 648 of the New York city charter, as amended by local law
19 number 39 of the city of New York for the year 2008, is amended to read
20 as follows:

21 S 648. Appeals. Appeals may be taken from decisions of the commission-
22 er and of a deputy commissioner or the borough superintendent acting
23 under a written delegation of power filed in accordance with the
24 provisions of section six hundred forty-two or subdivision (c) of
25 section six hundred forty-five of this chapter, to [the board of stand-
26 ards and appeals] A COURT OF COMPETENT JURISDICTION as provided by law.

27 S 10. Paragraph 3 of subdivision g of section 10-160 of the adminis-
28 trative code of the city of New York is REPEALED.

29 S 11. Subdivision (k) of section 24-526 of the administrative code of
30 the city of New York is REPEALED.

31 S 12. Subdivision b and paragraph 1 of subdivision c of section 25-305
32 of the administrative code of the city of New York are amended to read
33 as follows:

34 b. [(1)] Except in the case of any improvement mentioned in subdivi-
35 sion a of section 25-318 of this chapter and except in the case of a
36 city-aided project, no application shall be approved and no permit or
37 amended permit for the construction, reconstruction, alteration or demo-
38 lition of any improvement located or to be located on a landmark site or
39 in an historic district or containing an interior landmark shall be
40 issued by the department of buildings, and no application shall be
41 approved and no special permit or amended special permit for such
42 construction, reconstruction or alteration, where required by article
43 seven of the zoning resolution, shall be granted by the city planning
44 commission [or the board of standards and appeals], until the commission
45 shall have issued either a certificate of no effect on protected archi-
46 tectural features, a certificate of appropriateness or a notice to
47 proceed pursuant to the provisions of this chapter as an authorization
48 for such work.

49 (1) A copy of every application or amended application for a permit to
50 construct, reconstruct, alter or demolish any improvement located or to
51 be located on a landmark site or in an historic district or containing
52 an interior landmark shall, at the time of the submission of the
53 original thereof to the department of buildings, be filed by the appli-
54 cant with the commission. A copy of every application, under article
55 seven of the zoning resolution, for a special permit for any work which
56 includes the construction, reconstruction or alteration of any such

1 improvement shall, at the time of the submission of such application or
2 amended application of the city planning commission [or the board of
3 standards and appeals, as the case may be], be filed with the commis-
4 sion.

5 S 13. Paragraph 1 of subdivision a of section 25-306 of the adminis-
6 trative code of the city of New York is amended to read as follows:

7 (1) In any case where an applicant for a permit from the department of
8 buildings to construct, reconstruct, alter or demolish any improvement
9 on a landmark site or in an historic district or containing an interior
10 landmark, or an applicant for a special permit from the city planning
11 commission [or the board of standards and appeals] authorizing any such
12 work pursuant to article seven of the zoning resolution, or amendments
13 thereof, files a copy of such application or amended application with
14 the commission, together with a request for a certificate of no effect
15 on protected architectural features, the commission shall determine: (a)
16 whether the proposed work would change, destroy or affect any exterior
17 architectural feature of the improvement on a landmark site or in an
18 historic district or any interior architectural feature of the interior
19 landmark upon which said work is to be done; and (b) in the case of
20 construction of a new improvement, whether such construction would
21 affect or not be in harmony with the external appearance of other,
22 neighboring improvements on such site or in such district. If the
23 commission determines such question in the negative, it shall grant such
24 certificate; otherwise, it shall deny such request.

25 S 14. Section 25-316 of the administrative code of the city of New
26 York is amended to read as follows:

27 S 25-316 Transmission of certificates and applications to proper city
28 agency. In any case where a certificate of no effect on protected archi-
29 tectural features, certificate of appropriateness or notice to proceed
30 is granted by the commission to an applicant who has filed with the
31 commission a copy of an application for a permit from the department of
32 buildings, the commission shall transmit such certificate or a copy of
33 such notice to the department of buildings. In any case where any such
34 certificate or notice is granted to an applicant who has filed an appli-
35 cation for a special permit with the city planning commission [or the
36 board of standards and appeals] pursuant to article seven of the zoning
37 resolution, the commission shall transmit such certificate or a copy of
38 such notice to the planning commission [or the board of standards and
39 appeals, as the case may be].

40 S 15. Section 27-107 of the administrative code of the city of New
41 York is amended to read as follows:

42 S 27-107 Variations. The requirements and standards prescribed in this
43 code shall be subject to variation in specific cases by the commission-
44 er, [or by the board of standards and appeals,] under and pursuant to
45 the provisions of paragraph two of subdivision (b) of section six
46 hundred forty-five [and section six hundred sixty-six] of the charter,
47 as amended.

48 S 16. Section 28-118.17 of the administrative code of the city of New
49 York, as added by local law number 33 of the city of New York for the
50 year 2007, is amended to read as follows:

51 S 28-118.17 Revocation of certificates of occupancy. The commissioner
52 is authorized to request, in writing, pursuant to section six hundred
53 [forty five] FORTY-FIVE of the New York city charter that [the board of
54 standards and appeals or] a court of competent jurisdiction revoke,
55 vacate, or modify a certificate of occupancy issued under the provisions

1 of this code whenever the certificate is issued in error, or on the
2 basis of incorrect information provided to the department.

3 S 17. Section 28-501.4 of the administrative code of the city of New
4 York, as added by local law number 33 of the city of New York for the
5 year 2007, is amended to read as follows:

6 S 28-501.4 Civil penalties. Any person who places or maintains a sign
7 on a building or premises without an appropriate permit in violation of
8 this article shall be liable for a civil penalty of, for a first
9 violation, not more than fifteen thousand dollars and, for a second or
10 subsequent violation, not more than twenty-five thousand dollars. Each
11 day's continuance shall be a separate and distinct violation. Such civil
12 penalties may be recovered in an action in any court of appropriate
13 jurisdiction or in a proceeding before the environmental control board.
14 Such board shall have the power to impose the civil penalties provided
15 for in this article. [Notwithstanding the provisions of section six
16 hundred sixty-six of the charter, a] A notice of violation issued by the
17 department pursuant to this section [28-501.4] shall not be subject to
18 review by the board of standards and appeals.

19 S 18. Section 28-502.4.3 of the administrative code of the city of New
20 York, as added by local law number 33 of the city of New York for the
21 year 2007, is amended to read as follows:

22 S 28-502.4.3 Certification of list. Such list shall be accompanied by
23 (i) a certification by an architect or engineer, co-signed by a respon-
24 sible officer of the outdoor advertising company, that all signs
25 reported on such list are in compliance with the zoning resolution; (ii)
26 copies of proof that the sign complies with the zoning resolution and a
27 certification by the sign's owner that to the best of the certifier's
28 knowledge and belief the information provided is accurate, or (iii) a
29 written opinion by the department, stating that the sign to which the
30 opinion refers complies with the zoning resolution. Notwithstanding any
31 inconsistent provision of this code, where, in accordance with the
32 department's rules, the department renders an opinion, determination or
33 decision relating to whether a sign is nonconforming or whether it is
34 located in proximity to an arterial highway as defined by the zoning
35 resolution, such decision, determination or opinion will be appealable
36 to [the board of standards and appeals] A COURT OF COMPETENT JURISDIC-
37 TION in accordance with applicable law. If a timely appeal to such
38 [board] COURT is taken, the department shall not issue a notice of
39 violation with respect to such sign pending a determination of such
40 appeal by such [board] COURT.

41 S 19. Section 28-502.6.7 of the administrative code of the city of New
42 York, as added by local law number 33 of the city of New York for the
43 year 2007, is amended to read as follows:

44 S 28-502.6.7 Venue. Civil penalties may be recovered in an action in
45 any court of appropriate jurisdiction or in a proceeding before the
46 environmental control board. Such board shall have the power to impose
47 the civil penalties provided for in this article. [Notwithstanding the
48 provisions of section six hundred sixty-six of the charter, a] A notice
49 of violation issued by the department pursuant to this article shall not
50 be subject to review by the board of standards and appeals.

51 S 20. Section 28-503.11 of the administrative code of the city of New
52 York, as added by local law number 33 of the city of New York for the
53 year 2007, is amended to read as follows:

54 S 28-503.11 Review of order. An order of the commissioner issued
55 pursuant to this article shall be a final determination of the commis-
56 sioner for purposes of review pursuant to article seventy-eight of the

1 civil practice law and rules. [Notwithstanding any inconsistent
2 provision of paragraph (a) of subdivision six of section six hundred
3 sixty-six of the New York city charter, such] SUCH order shall not be
4 subject to review by the board of standards and appeals.

5 S 21. Subdivision 2 of section 36 of the general city law, as amended
6 by chapter 815 of the laws of 1984, is amended to read as follows:

7 2. A city having a population of one million or more. No public munic-
8 ipal street utility or improvement shall be constructed by any city
9 having a population of one million or more in any street or highway
10 until it has become a public street or highway and is duly placed on the
11 official map or plan, with the exception that a city may construct
12 improvements and provide services to any public way (mapped or unmapped)
13 if the public way has been open and in use to the public for a minimum
14 of ten years. The existence of the public way must be attested to by
15 documents satisfactory to the municipality, such as reports of city
16 agencies providing municipal services. No certificate of occupancy shall
17 be issued in such city for any building unless a street or highway
18 giving access to such structure has been duly placed on the official map
19 or plan, which street or highway, and any other mapped street or highway
20 abutting such building or structure shall have been suitably improved to
21 the satisfaction of the department of transportation of the city in
22 accordance with standards and specifications approved by such department
23 as adequate in respect to the public health, safety and general welfare
24 for the special circumstances of the particular street or highway, or,
25 alternately, unless the owner has furnished to the department of trans-
26 portation of such city a performance bond naming the city as obligee,
27 approved by such department, to the full cost of such improvement as
28 estimated by such department, or other security approved by such depart-
29 ment, that such improvement will be completed within the time specified
30 by such department. If such improvement has not been installed within
31 the time specified by such department, such department may declare such
32 performance bond or other security to be in default and shall collect,
33 in the name of the city, the sum remaining payable thereunder. Upon
34 receipt of the proceeds thereof, the city shall install such improve-
35 ment. If the cost of such improvement exceeds the sum remaining payable
36 under such bond or other security, the owner shall be liable for and
37 shall pay to the city, the amount of such excess. Where the enforcement
38 of the provisions of this section would entail practical difficulty or
39 unnecessary hardship, and where the circumstances of the case do not
40 require the structure to be related to existing or proposed streets or
41 highways, the applicant for such a certificate of occupancy may appeal
42 from the decision of the administrative officer having charge of the
43 issuance of certificates of occupancy to the [board of standards and
44 appeals or other similar board] COMMISSIONER OF THE DEPARTMENT OF CITY
45 PLANNING OR SUCH OTHER OFFICER OR BOARD of such city having power to
46 make variances or exceptions in zoning regulations, and the same
47 provisions are hereby applied to such appeals [and to such board] as are
48 provided in cases of appeals on zoning regulations. The [board] COMMIS-
49 SIONER OR OTHER OFFICER OR BOARD may in passing on such appeal make any
50 reasonable exception and issue the certificate of occupancy subject to
51 conditions that will protect any future street or highway layout. Any
52 such decision shall be subject to review under the provisions of article
53 seventy-eight of the civil practice law and rules. No permit shall be
54 granted for the erection of any building or structure in such city
55 unless the owner has furnished to the commissioner of transportation of
56 such city a policy of liability insurance, marked paid, in such amounts

1 as may be fixed by such department, insuring, indemnifying and saving
2 the city harmless from any claims, suits, demands, causes of action and
3 judgments by reason of personal injuries sustained by any person or
4 persons, including death, and from any claims, suits, demands, causes of
5 action and judgments for damages to property, occurring on any such
6 street or highway giving access to or abutting such structure, up to the
7 date of the issuance of the certificate of occupancy or up to the date
8 of the completion of the improvement of such street or highway as
9 required by or pursuant to this section, whichever is later. In the
10 event that the owner is covered by such a policy of liability insurance,
11 the department of transportation may accept a certificate of endorsement
12 extending such policy to include and cover the city. Every permit
13 issued for the erection of any such building or structure shall contain
14 a statement that no certificate of occupancy will be issued with respect
15 to such building or structure unless a street or highway giving access
16 to such structure has been duly placed on the official map or plan,
17 which street or highway and any other mapped street or highway abutting
18 such building or structure shall have been suitably improved to the
19 satisfaction of the department of transportation of the city in accord-
20 ance with standards and specifications approved by such department as
21 adequate in respect to the public health, safety and general welfare for
22 the special circumstances of the particular street or highway or, alter-
23 nately, unless the owner has furnished to the department of transporta-
24 tion a performance bond naming the city as obligee, approved by such
25 department, sufficient to cover the full cost of such improvement as
26 estimated by such department, or other security approved by such depart-
27 ment, that such improvement will be completed within the time specified
28 by such department.

29 S 22. Notwithstanding any inconsistent provision of law to the contra-
30 ry, all functions, powers, duties and obligations of the board of stand-
31 ards and appeals of the city of New York as they related to the zoning
32 or building code or regulations of the city of New York shall be trans-
33 ferred to the department of city planning of the city of New York,
34 unless otherwise specified by law.

35 S 23. All rules, regulations, acts, orders, determinations and deci-
36 sions of the board of standards and appeals of the city of New York in
37 force at the time of such transfer and assumption, shall continue in
38 force and effect as rules, regulations, acts, orders, determinations and
39 decisions of the department of city planning of the city of New York
40 until duly modified or abrogated.

41 S 24. This act shall take effect on the ninetieth day after it shall
42 have become a law.