

685

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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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

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

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1 acting under a written delegation of power from the commissioner of  
2 buildings filed in accordance with the provisions of section six hundred  
3 forty-two or section six hundred forty-five of this charter, or

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

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

22 [7. In passing upon appeals, to vary or modify any rule or regulation  
23 or the provisions of any law relating to the construction, use, struc-  
24 tural changes, equipment, alteration or removal of buildings or struc-  
25 tures, or vaults in sidewalks appurtenant thereto, where there are prac-  
26 tical difficulties or unnecessary hardship in the way of carrying out  
27 the strict letter of the law, so that the spirit of the law shall be  
28 observed, public safety secured and substantial justice done, provided  
29 that the provisions of the housing maintenance code and of any regu-  
30 lation or order issued under such code may be varied or modified only to  
31 the extent permitted by such code and only in the manner and subject to  
32 the conditions therein specified.

33 8.] 6. To review, upon motion of any member of the board, any rule,  
34 regulation, amendment or repeal thereof, and any order, requirement,  
35 decision or determination from which an appeal may be taken to the board  
36 under the provisions of this chapter or of any law, or of any rule,  
37 regulation or decision of the board; but no such review shall prejudice  
38 the rights of any person who has in good faith acted thereon before it  
39 is reversed or modified. The provisions of this chapter relating to  
40 appeals to the board shall be applicable to such review.

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

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

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

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

52 S 3. The New York city charter is amended by adding a new section  
53 201-a to read as follows:

54 S 201-A. VARIANCES AND SPECIAL PERMITS. A. COMMUNITY BOARDS AND  
55 BOROUGH BOARDS SHALL REVIEW APPLICATIONS TO VARY THE ZONING RESOLUTION

1 AND APPLICATIONS FOR SPECIAL PERMITS UNDER THE ZONING RESOLUTION PURSU-  
2 ANT TO THE FOLLOWING PROCEDURE:

3 1. EACH PROPOSAL OR APPLICATION SHALL BE FILED WITH THE CITY PLANNING  
4 COMMISSION, WHICH SHALL FORWARD A COPY WITHIN FIVE DAYS TO THE COMMUNITY  
5 BOARD FOR EACH COMMUNITY DISTRICT IN WHICH THE LAND INVOLVED, OR ANY  
6 PART THEREOF, IS LOCATED, AND TO THE BOROUGH BOARD IF THE PROPOSAL OR  
7 APPLICATION INVOLVES LAND LOCATED IN TWO OR MORE DISTRICTS IN A BOROUGH.

8 2. EACH SUCH COMMUNITY BOARD SHALL, NOT LATER THAN SIXTY DAYS AFTER  
9 THE RECEIPT OF THE PROPOSAL OR APPLICATION, EITHER NOTIFY THE PUBLIC OF  
10 THE PROPOSAL OR APPLICATION, IN THE MANNER SPECIFIED BY THE CITY PLAN-  
11 NING COMMISSION PURSUANT TO SUBDIVISION I OF SECTION ONE HUNDRED NINE-  
12 TY-SEVEN-C OF THIS CHARTER, CONDUCT A PUBLIC HEARING THEREON AND PREPARE  
13 AND SUBMIT A WRITTEN RECOMMENDATION THEREON DIRECTLY TO THE CITY PLAN-  
14 NING COMMISSION, OR WAIVE THE CONDUCT OF SUCH PUBLIC HEARING AND THE  
15 PREPARATION OF SUCH WRITTEN RECOMMENDATION.

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

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

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

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

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

52 B. THE RECOMMENDATION OF A COMMUNITY BOARD OR BOROUGH BOARD PURSUANT  
53 TO SUBDIVISION A OF THIS SECTION SHALL BE FILED WITH THE CITY PLANNING  
54 COMMISSION. THE CITY PLANNING COMMISSION SHALL CONDUCT A PUBLIC HEARING  
55 AND ACT ON THE PROPOSED APPLICATION. A DECISION OF THE COMMISSION SHALL  
56 INDICATE WHETHER EACH OF THE SPECIFIC REQUIREMENTS OF THE ZONING RESOL-

UTION FOR THE GRANTING OF VARIANCES HAS BEEN MET AND SHALL INCLUDE FINDINGS OF FACT WITH REGARD TO EACH SUCH REQUIREMENT.

C. COPIES OF A DECISION OF THE CITY PLANNING COMMISSION AND COPIES OF ANY RECOMMENDATION OF THE AFFECTED COMMUNITY BOARD OR BOROUGH BOARD SHALL BE FILED WITH THE CITY PLANNING COMMISSION. COPIES OF THE DECISION SHALL ALSO BE FILED WITH THE AFFECTED COMMUNITY OR BOROUGH BOARDS.

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

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

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

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

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

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

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

B. OTHER BUILDINGS AND STRUCTURES (FEE SCHEDULE APPLICABLE TO SQUARE FOOTAGE INVOLVED IN APPLICATION), AND JUNK YARDS, PARKING LOTS, AUTOMOTIVE SERVICE STATIONS AND OTHER SIMILAR USES (FEE SCHEDULE APPLICABLE TO LOT AREA INVOLVED IN APPLICATION).

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

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

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

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

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

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

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

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

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

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

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

B. OTHER BUILDINGS AND STRUCTURES (FEE SCHEDULE APPLICABLE TO SQUARE FOOTAGE INVOLVED IN APPLICATION), AND JUNK YARDS, PARKING LOTS, AUTOMOTIVE SERVICE STATIONS AND OTHER SIMILAR USES (FEE SCHEDULE APPLICABLE TO LOT AREA INVOLVED IN APPLICATION):

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

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

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

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

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

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

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

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

3. SPECIAL ORDER CALENDAR.

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

B. APPLICATION FOR AMENDMENT OF A VARIANCE OR SPECIAL PERMIT PREVIOUSLY GRANTED UNDER THE ZONING RESOLUTION WITH RESPECT TO:

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

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

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

C. APPLICATION FOR AN EXTENSION OF TIME:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. APPEALS.

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

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

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

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

B. APPEAL TO THE DEPARTMENT OF CITY PLANNING FROM OR APPLICATION FOR REVIEW OF ANY ORDER, REQUIREMENT OR DETERMINATION OF THE COMMISSIONER OF BUILDINGS OR OF ANY BOROUGH SUPERINTENDENT OF THE DEPARTMENT OF BUILDINGS; OR APPEAL TO THE BOARD OF STANDARDS AND APPEALS FROM OR APPLICATION FOR REVIEW OF ANY ORDER, REQUIREMENT OR DETERMINATION OF THE FIRE COMMISSIONER OR ANY RULE OR REGULATION OR AMENDMENT OR REPEAL THEREOF MADE BY THE FIRE COMMISSIONER OR THE COMMISSIONER OF SMALL BUSINESS SERVICES WITH RESPECT TO:

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

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

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

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

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

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

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

D. APPLICATION TO THE DEPARTMENT OF CITY PLANNING FOR AMENDMENT OF PRIOR APPROVAL OF APPEALS FROM OR APPLICATION FOR REVIEW OF ANY ORDER, REQUIREMENT OR DETERMINATION OF THE COMMISSIONER OF BUILDINGS OR OF ANY BOROUGH SUPERINTENDENT OF THE DEPARTMENT OF BUILDINGS; OR APPLICATION TO THE BOARD OF STANDARDS AND APPEALS OF PRIOR APPROVAL OF APPEALS FROM OR APPLICATION FOR REVIEW OF ANY ORDER, REQUIREMENT OR DETERMINATION OF THE FIRE COMMISSIONER OR ANY RULE OR REGULATION OR AMENDMENT OR REPEAL THEREOF MADE BY THE FIRE COMMISSIONER OR THE COMMISSIONER OF SMALL BUSINESS SERVICES WITH RESPECT TO:

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

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

5. APPLICATION FOR EXTENSION OF PERIOD TO COMPLETE CONSTRUCTION PURSUANT TO SECTION 11-33 OF THE ZONING RESOLUTION:

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

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

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

6. EXEMPTIONS. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY IF A MUNICIPAL DEPARTMENT OR AGENCY OF THE CITY IS THE APPLICANT OR APPELLANT

1 BEFORE THE DEPARTMENT OF CITY PLANNING OR THE BOARD OF STANDARDS AND  
2 APPEALS.

3 7. OTHER. REQUEST TO OBTAIN OFF-SITE FILE OF PREVIOUS APPLICATIONS TO  
4 THE DEPARTMENT OF CITY PLANNING OR THE BOARD OF STANDARDS AND APPEALS:  
5 \$50.00.

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

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

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

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

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

35 S 8. The opening paragraph, paragraph 2 and subparagraph e of para-  
36 graph 3 of subdivision (b) of section 645 of the New York city charter,  
37 the opening paragraph and paragraph 2 as added by local law number 29 of  
38 the city of New York for the year 1977 and subparagraph e of paragraph 3  
39 as amended by local law number 29 of the city of New York for the year  
40 1979, are amended to read as follows:

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

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

1 except as expressly allowed therein, or from any appellate ruling [of  
2 the board of standards and appeals];

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

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

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

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

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

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

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

54 (1) A copy of every application or amended application for a permit to  
55 construct, reconstruct, alter or demolish any improvement located or to  
56 be located on a landmark site or in an historic district or containing



1 an interior landmark shall, at the time of the submission of the  
2 original thereof to the department of buildings, be filed by the appli-  
3 cant with the commission. A copy of every application, under article  
4 seven of the zoning resolution, for a special permit for any work which  
5 includes the construction, reconstruction or alteration of any such  
6 improvement shall, at the time of the submission of such application or  
7 amended application of the city planning commission [or the board of  
8 standards and appeals, as the case may be], be filed with the commis-  
9 sion.

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

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

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

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

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

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

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

1 S 28-118.17 Revocation of certificates of occupancy. The commissioner  
2 is authorized to request, in writing, pursuant to section six hundred  
3 [forty five] FORTY-FIVE of the New York city charter that [the board of  
4 standards and appeals or] a court of competent jurisdiction revoke,  
5 vacate, or modify a certificate of occupancy issued under the provisions  
6 of this code whenever the certificate is issued in error, or on the  
7 basis of incorrect information provided to the department.

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

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

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

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

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

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

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

4 S 28-503.11 Review of order. An order of the commissioner issued  
5 pursuant to this article shall be a final determination of the commis-  
6 sioner for purposes of review pursuant to article seventy-eight of the  
7 civil practice law and rules. [Notwithstanding any inconsistent  
8 provision of paragraph (a) of subdivision six of section six hundred  
9 sixty-six of the New York city charter, such] SUCH order shall not be  
10 subject to review by the board of standards and appeals.

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

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

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

35 S 22. Notwithstanding any inconsistent provision of law to the contra-  
36 ry, all functions, powers, duties and obligations of the board of stand-  
37 ards and appeals of the city of New York as they related to the zoning  
38 or building code or regulations of the city of New York shall be trans-  
39 ferred to the department of city planning of the city of New York,  
40 unless otherwise specified by law.

41 S 23. All rules, regulations, acts, orders, determinations and deci-  
42 sions of the board of standards and appeals of the city of New York in  
43 force at the time of such transfer and assumption, shall continue in  
44 force and effect as rules, regulations, acts, orders, determinations and  
45 decisions of the department of city planning of the city of New York  
46 until duly modified or abrogated.

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