S T A T E O F N E W Y O R K

913

2015-2016 Regular Sessions

I N S E N A T E

January 7, 2015

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:

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

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

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

(a) [except as otherwise provided by law, any order, requirement, decision or determination of the commissioner of buildings or of a deputy commissioner of buildings or any borough superintendent of buildings acting under a written delegation of power from the commissioner of

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

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buildings filed in accordance with the provisions of section six hundred forty-two or section six hundred forty-five of this charter, or

(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 BOARD FOR EACH COMMUNITY DISTRICT IN WHICH THE LAND INVOLVED, OR ANY PART THEREOF, IS LOCATED, AND TO THE BOROUGH BOARD IF THE PROPOSAL OR APPLICATION INVOLVES LAND LOCATED IN TWO OR MORE DISTRICTS IN A BOROUGH.

2. EACH SUCH COMMUNITY BOARD SHALL, NOT LATER THAN SIXTY DAYS AFTER THE RECEIPT OF THE PROPOSAL OR APPLICATION, EITHER NOTIFY THE PUBLIC OF THE PROPOSAL OR APPLICATION, IN THE MANNER SPECIFIED BY THE CITY PLANNING COMMISSION PURSUANT TO SUBDIVISION I OF SECTION ONE HUNDRED NINETY-SEVEN-C OF THIS CHAPTER, CONDUCT A PUBLIC HEARING THEREON AND PREPARE AND SUBMIT A WRITTEN RECOMMENDATION THEREON DIRECTLY TO THE CITY PLANNING COMMISSION, OR WAIVE THE CONDUCT OF SUCH PUBLIC HEARING AND THE PREPARATION OF SUCH WRITTEN RECOMMENDATION.

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

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

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

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

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

B. THE RECOMMENDATION OF A COMMUNITY BOARD OR BOROUGH BOARD PURSUANT TO SUBDIVISION A OF THIS SECTION SHALL BE FILED WITH THE CITY PLANNING COMMISSION. THE CITY PLANNING COMMISSION SHALL CONDUCT A PUBLIC HEARING AND ACT ON THE PROPOSED APPLICATION. A DECISION OF THE COMMISSION SHALL INDICATE WHETHER EACH OF THE SPECIFIC REQUIREMENTS OF THE ZONING RESOLUTION 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 BEFORE THE DEPARTMENT OF CITY PLANNING OR THE BOARD OF STANDARDS AND APPEALS.

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

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

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

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

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

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

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

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

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

e. every certificate of occupancy shall, unless and until set aside, vacated or modified by [the board of standards and appeals or] a court of competent jurisdiction, be and remain binding and conclusive upon all agencies and officers of the city, and shall be binding and conclusive upon the department of labor of the state of New York, as to all matters therein set forth, and no order, direction or requirement affecting or at variance with any matter set forth in any certificate of occupancy shall be made or issued by any agency or officer of the city, or by the department of labor of the state of New York, or any commission, board, officer or member thereof, unless and until the certificate is set aside, vacated or modified by [the board of standards and appeals or] a court of competent jurisdiction upon the application of the agency, department, commission, officer or member thereof seeking to make or issue such order, direction or requirement. All such applications shall be made in writing and filed with the [board or] court for hearing thereon; and copies of the application and order, direction or requirement sought to be made or issued shall be served upon the owner of the building or structure and upon the commissioner of buildings, if he is not the applicant, and upon such terms and conditions as to service, notice, time and place of hearing as the [board or] court shall direct;

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

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

S 10. Paragraph 3 of subdivision g of section 10-160 of the administrative code of the city of New York is REPEALED.

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

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

b. [(1)] Except in the case of any improvement mentioned in subdivision a of section 25-318 of this chapter and except in the case of a city-aided project, no application shall be approved and no permit or amended permit for the construction, reconstruction, alteration or demolition of any improvement located or to be located on a landmark site or in an historic district or containing an interior landmark shall be issued by the department of buildings, and no application shall be approved and no special permit or amended special permit for such construction, reconstruction or alteration, where required by article seven of the zoning resolution, shall be granted by the city planning commission [or the board of standards and appeals], until the commission shall have issued either a certificate of no effect on protected architectural features, a certificate of appropriateness or a notice to proceed pursuant to the provisions of this chapter as an authorization for such work.

(1) A copy of every application or amended application for a permit to construct, reconstruct, alter or demolish any improvement located or to be located on a landmark site or in an historic district or containing an interior landmark shall, at the time of the submission of the original thereof to the department of buildings, be filed by the appli-

cant with the commission. A copy of every application, under article seven of the zoning resolution, for a special permit for any work which includes the construction, reconstruction or alteration of any such improvement shall, at the time of the submission of such application or amended application of the city planning commission [or the board of standards and appeals, as the case may be], be filed with the commission.

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

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

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

S 25-316 Transmission of certificates and applications to proper city agency. In any case where a certificate of no effect on protected architectural features, certificate of appropriateness or notice to proceed is granted by the commission to an applicant who has filed with the commission a copy of an application for a permit from the department of buildings, the commission shall transmit such certificate or a copy of such notice to the department of buildings. In any case where any such certificate or notice is granted to an applicant who has filed an application for a special permit with the city planning commission [or the board of standards and appeals] pursuant to article seven of the zoning resolution, the commission shall transmit such certificate or a copy of such notice to the planning commission [or the board of standards and appeals, as the case may be].

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

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

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

S 28-118.17 Revocation of certificates of occupancy. The commissioner is authorized to request, in writing, pursuant to section six hundred [forty five] FORTY-FIVE of the New York city charter that [the board of

standards and appeals or] a court of competent jurisdiction revoke, vacate, or modify a certificate of occupancy issued under the provisions of this code whenever the certificate is issued in error, or on the basis of incorrect information provided to the department.

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

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

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

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

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

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

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

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

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

2. A city having a population of one million or more. No public municipal street utility or improvement shall be constructed by any city having a population of one million or more in any street or highway until it has become a public street or highway and is duly placed on the official map or plan, with the exception that a city may construct improvements and provide services to any public way (mapped or unmapped) if the public way has been open and in use to the public for a minimum of ten years. The existence of the public way must be attested to by documents satisfactory to the municipality, such as reports of city agencies providing municipal services. No certificate of occupancy shall be issued in such city for any building unless a street or highway giving access to such structure has been duly placed on the official map or plan, which street or highway, and any other mapped street or highway abutting such building or structure shall have been suitably improved to the satisfaction of the department of transportation of the city in accordance with standards and specifications approved by such department as adequate in respect to the public health, safety and general welfare for the special circumstances of the particular street or highway, or, alternately, unless the owner has furnished to the department of transportation of such city a performance bond naming the city as obligee, approved by such department, to the full cost of such improvement as estimated by such department, or other security approved by such department, that such improvement will be completed within the time specified by such department. If such improvement has not been installed within the time specified by such department, such department may declare such performance bond or other security to be in default and shall collect, in the name of the city, the sum remaining payable thereunder. Upon receipt of the proceeds thereof, the city shall install such improvement. If the cost of such improvement exceeds the sum remaining payable under such bond or other security, the owner shall be liable for and shall pay to the city, the amount of such excess. Where the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and where the circumstances of the case do not require the structure to be related to existing or proposed streets or highways, the applicant for such a certificate of occupancy may appeal from the decision of the administrative officer having charge of the issuance of certificates of occupancy to the [board of standards and appeals or other similar board] COMMISSIONER OF THE DEPARTMENT OF CITY PLANNING OR SUCH OTHER OFFICER OR BOARD of such city having power to make variances or exceptions in zoning regulations, and the same provisions are hereby applied to such appeals [and to such board] as are provided in cases of appeals on zoning regulations. The [board] COMMISSIONER OR OTHER OFFICER OR BOARD may in passing on such appeal make any reasonable exception and issue the certificate of occupancy subject to conditions that will protect any future street or highway layout. Any such decision shall be subject to review under the provisions of article seventy-eight of the civil practice law and rules. No permit shall be

granted for the erection of any building or structure in such city unless the owner has furnished to the commissioner of transportation of such city a policy of liability insurance, marked paid, in such amounts as may be fixed by such department, insuring, indemnifying and saving the city harmless from any claims, suits, demands, causes of action and judgments by reason of personal injuries sustained by any person or persons, including death, and from any claims, suits, demands, causes of action and judgments for damages to property, occurring on any such street or highway giving access to or abutting such structure, up to the date of the issuance of the certificate of occupancy or up to the date of the completion of the improvement of such street or highway as required by or pursuant to this section, whichever is later. In the event that the owner is covered by such a policy of liability insurance, the department of transportation may accept a certificate of endorsement extending such policy to include and cover the city. Every permit issued for the erection of any such building or structure shall contain a statement that no certificate of occupancy will be issued with respect to such building or structure unless a street or highway giving access to such structure has been duly placed on the official map or plan, which street or highway and any other mapped street or highway abutting such building or structure shall have been suitably improved to the satisfaction of the department of transportation of the city in accordance with standards and specifications approved by such department as adequate in respect to the public health, safety and general welfare for the special circumstances of the particular street or highway or, alternately, unless the owner has furnished to the department of transportation a performance bond naming the city as obligee, approved by such department, sufficient to cover the full cost of such improvement as estimated by such department, or other security approved by such department, that such improvement will be completed within the time specified by such department.

S 22. Notwithstanding any inconsistent provision of law to the contrary, all functions, powers, duties and obligations of the board of standards and appeals of the city of New York as they related to the zoning or building code or regulations of the city of New York shall be transferred to the department of city planning of the city of New York, unless otherwise specified by law.

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

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