ARTICLE 4

PLUMBING AND DRAINAGE

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§ 40. Definitions. When used in this article, the words "employing or master plumber" shall mean a person having a regular place of business and who, by himself or journeymen plumbers in his employ, performs plumbing work.

§ 40-a. Examining boards of plumbers in cities. The existing boards for the examination of plumbers in cities of this state are continued and each shall be known as the examining board of plumbers. Such board in each city shall continue to consist of five persons to be appointed by the mayor, of whom two shall be employing or master plumbers of not less than ten years' experience in the business of plumbing, and one shall be a journeyman plumber of like experience, and the other members of such board shall be the chief inspector of plumbing and drainage of such city, or officer performing the duties of such inspector, and the chief engineer having charge of sewers in such city, but in the event of there being no such officers in such city, then any two other officers having charge or supervision of the plumbing, drainage or sewerage, whom the mayor shall designate or appoint, or two members of the board of health of such city having like duties or acting in like capacities.

§ 41. Term of office; vacancies. The term of office of each member of such board shall be three years, from the first day of January following his appointment. Vacancies occurring by expiration of a term shall be filled by the mayor for a full term. Vacancies by death, removal, inability to act, resignation or removal from the city of any member shall be filled by him for the unexpired term. The chief inspector of plumbing and drainage and the engineer in charge of sewers or the officers holding equivalent positions or acting in like capacities designated or appointed by the mayor as herein provided, shall be ex officio members of such examining board, and when they shall cease to hold their offices by reason or on account of which they were so designated or appointed, their successors shall act on the examining board in their stead.

§ 42. Compensation of members of board. The master and journeymen plumbers serving as members of such board shall receive such compensation for their services as shall be determined by the board of estimate and apportionment or other similar body authorized by law to

fix and determine the compensation of city officers and employees.

§ 43. Qualifications. All members of such board shall be citizens and actual residents of the cities in which they are appointed, except in the city of Niagara Falls where such members shall be citizens and actual residents of the county wherein the city is situated, the city of Middletown where such members shall either be citizens and actual residents of the county wherein the city is situated or anywhere within a twenty-five mile radius of such city within this state, and except in the city of Corning where such members shall be citizens and actual residents of the county wherein the city is situated or in an abutting or adjacent county, and except in the city of Rochester where such members shall be citizens and actual residents of the county wherein the city is situated, and except in the city of Watertown where such members shall be citizens and actual residents of the county wherein the city is situated. Provided however, in any city with a population of less than twenty-five thousand, or in any city which has less than four master plumbers, such members may be residents of the county or counties wherein the city is situated.

§ 44. Powers and duties. The several examining boards of plumbers shall have power and it shall be their duty:

1. To meet at stated intervals in their respective cities; they shall also meet whenever the board of health of such city or the mayor thereof shall in writing request them so to do.

2. To have jurisdiction over and to examine all persons desiring or intending to engage in the trade, business or calling of plumbing as employing plumbers in the city in which such board shall be appointed with the power of examining persons applying for certificates of competency as such employing or master plumbers or as inspectors of plumbing, to determine their fitness and qualifications for conducting the business of master plumbers or to act as inspector of plumbing, and to issue certificates of competency to all such persons who shall have

passed a satisfactory examination before such board and shall be by it determined to be qualified for conducting the business as employing or master plumbers or competent to act as inspectors of plumbing.

3. To formulate in conjunction with the local board of health of the city or an officer, board or body performing the duties of a board of health a code of rules regulating the work of plumbing and drainage in such city, including the materials, workmanship and manner of executing such work and from time to time to add to, amend or alter the same, or in their discretion to adopt the standard plumbing code recommended by the state department of health.

4. To charge and collect from each person applying for examination the sum of ten dollars for each examination made by such board, and all moneys so collected shall be paid over by the board monthly to the chamberlain or treasurer of such city in which such board shall be appointed.

§ 45. Examinations; conducting business without certificate prohibited. A person desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in a city of this state as employing or master plumber, shall be required to submit to an examination before such examining board of plumbers as to his experience and qualifications for such trade, business or calling, and it shall not be lawful in any city of this state for a person to conduct such trade, business or calling, unless he shall have first obtained a certificate of competency from such board of the city in which he conducts or proposes to conduct such business.

§ 45-a. Corporations may conduct business. A domestic corporation desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in a city of this state, as employing or master plumber, may do so provided one or more officers of such corporation separately or aggregately actually hold and own at least fifty-one per centum of the issued and outstanding capital stock of said corporation,

and provided that each of such officers holding such percentage of the stock is the holder of a certificate of competency of such board of the city in which it conducts or proposes to conduct such business as provided in section forty-five. In case one or more officers of a corporation engaged in such business shall die, being the holder of a certificate of competency, the corporation may continue the business during the time necessarily required for the administration of the estate of such deceased officer, not exceeding two years from the granting of letters, provided one or more officers of the corporation is the holder of a certificate of competency and together with the legal representatives of such deceased officer or officers, actually owns and holds at least fifty-one per centum of the issued and outstanding capital stock of the said corporation. Each and every member of said corporation holding a certificate of competency shall comply with all the rules and regulations applicable to master or employing plumbers in the locality in which the corporation is engaged in business. Such corporation shall register as provided in section forty-six of this chapter.

*** § 45-b. Further requirements relating to the business of plumbing.** 1. No person otherwise qualified shall engage in the trade, business or calling of a plumber or of plumbing in a city of this state as employing or master plumber until he has first procured from the board of health or the examining board of plumbers if so designated by local law in such city or, in the city of New York, from the department of health, a metal plate or sign appropriately lettered or marked "licensed plumber;" such plate or sign to be conspicuously posted in the window of the place where such business is conducted. Any person retiring, abandoning or not actually engaged in such trade, business or calling hereinbefore mentioned, shall surrender to the board of health or the examining board of plumbers if so designated by local law of the city, or, in the city of New York, to the department of health such metal plate or sign and shall not again engage in such trade, business or calling until he has again procured a metal sign as herein provided.

2. Within thirty days after this section takes effect, the board of

health or the examining board of plumbers if so designated by local law in every city of this state and in the city of New York, the department of health, shall prepare metal plates or signs, at least fourteen inches wide and not less than twenty-two inches in length appropriately lettered or marked "licensed plumber," the lines of each letter to be four inches long and five-eighths of an inch wide; such plate or sign shall, on some part thereof, contain an identification number, which number together with the name and location of the place of business of the person to whom issued shall be recorded in the office of such board of health or the examining board of plumbers if so designated by local law, or such department of health in the city of New York. Every person now actually engaged or about to engage in the trade, business or calling of a plumber or of plumbing as employing or master plumber, who has otherwise complied with the provisions of law relating to the conduct of such business upon the payment of five dollars to the board of health or the examining board of plumbers if so designated by local law of such city, or in the city of New York to the department of health, shall have issued to him a sign or plate hereinbefore described. In the city of New York a renewal fee of two dollars per annum shall be charged for each such plate or sign which shall be issued without reexamination, such fee to be paid by the holder of such plate or sign to the department of health annually during the month of January. Any person to whom such plate or sign has been issued who shall loan, rent, sell or transfer the same to another person whether such person be entitled to receive a similar plate or sign or not, or otherwise wilfully violates the provisions of this section shall be guilty of a misdemeanor punishable by a fine of not exceeding fifty dollars for the first offense, and not less than one hundred dollars nor more than five hundred dollars for a subsequent offense, and in addition thereto shall forfeit his license and certificate of qualifications.

The provisions of this section shall apply to all cities of the state, including the city of New York.

* NB There are 2 § 45-b's

*** § 45-b. Further requirements relating to the business of plumbing.**

1. No person otherwise qualified shall engage in the trade, business or calling of a plumber or of plumbing in a city of this state as employing or master plumber until he has first procured from the board of health or the examining board of plumbers if so designated by local law in such city a metal plate or sign appropriately lettered or marked "licensed plumber;" such plate or sign to be conspicuously posted in the window of the place where such business is conducted. Any person retiring, abandoning or not actually engaged in such trade, business or calling hereinbefore mentioned, shall surrender to the board of health or the examining board of plumbers if so designated by local law of the city such metal plate or sign and shall not again engage in such trade, business or calling until he has again procured a metal sign as herein provided.

2. Within thirty days after this section takes effect, the board of health or the examining board of plumbers if so designated by local law in every city of this state shall prepare metal plates or signs, at least fourteen inches wide and not less than twenty-two inches in length appropriately lettered or marked "licensed plumber," the lines of each letter to be four inches long and five-eighths of an inch wide; such plate or sign shall, on some part thereof, contain an identification number, which number together with the name and location of the place of business of the person to whom issued shall be recorded in the office of such board of health or the examining board of plumbers if so designated by local law. Every person now actually engaged or about to engage in the trade, business or calling of a plumber or of plumbing as employing or master plumber, who has otherwise complied with the provisions of law relating to the conduct of such business upon the payment of five dollars to the board of health or the examining board of plumbers if so designated by local law of such city shall have issued to him a sign or plate hereinbefore described. Any person to whom such plate or sign has been issued who shall loan, rent, sell or transfer the same to another person whether such person be entitled to receive a similar plate or sign or not, or otherwise wilfully violates the provisions of this section shall be guilty of a misdemeanor punishable by a fine of not exceeding fifty dollars for the first offense, and not less than one hundred dollars nor more than five hundred dollars for a subsequent

offense, and in addition thereto shall forfeit his license and certificate of qualifications.

The provisions of this section shall apply to all cities of the state, excluding the city of New York.

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§ 46. Registration; when required. Every employing or master plumber carrying on his trade, business or calling in any city of this state shall register his name and address at the office of the board of health or the examining board of plumbers if so designated by local law of the city in which he shall conduct such business, under such rules as the respective boards of health or the local board of examining plumbers, in conjunction with the board of health of each of the cities shall prescribe, and thereupon he shall be entitled to receive a certificate of such registration, provided, however, that such employing or master plumber shall at the time of applying for such registration hold a certificate of competency from an examining board of plumbers.

§ 47. Cancellation of registration; notice. Such registration may be cancelled by such board of health or the examining board of plumbers if so designated by local law for a violation of the rules and regulations for the plumbing and drainage of such city duly adopted and enforced therein, after a hearing had before such board of health or the examining board of plumbers if so designated by local law and upon a prior notice of not less than ten days stating the ground of complaint and served on the person charged with the violation, but such revocation shall not be operative unless concurred in by the local board of examiners. It shall not be lawful for any person to engage in or carry on the trade, business or calling of an employing or master plumber in any of the cities of this state, unless his name and address shall have been registered in the city in which he carries on or conducts such business.

§ 48. Inspectors; qualifications; notice. The local board of health or an official or board designated by local law of such city, as the case may be shall detail, designate or appoint an inspector or inspectors of plumbing, subject, however, to the provisions or limitations of law, regulating the appointment of such inspectors by such board of health or an official or board designated by local law of such city. All inspectors of plumbing who are detailed, designated or appointed shall be practical plumbers and shall not be engaged directly or indirectly in the business of plumbing, during the period of their appointment. They shall be citizens and actual residents of the city in which they are appointed; except in the cities of Cortland and Corning, where such inspectors shall be citizens and actual residents of the county or counties wherein the city is situated, or in an abutting or adjacent county; except in the city of Rochester, where such inspectors shall be citizens and actual residents of the county wherein the city is situated; except in the city of Watertown, where such inspectors shall be citizens and actual residents of the county wherein the city is situated except in the city of Middletown, where such inspectors shall be citizens and actual residents of the county wherein the city is situated, or within a twenty-five mile radius of the city of Middletown as long as such inspectors are citizens and actual residents of this state; except in the city of Jamestown, where such inspectors shall be citizens and actual residents of the county wherein the city is situated; except in the city of Tonawanda, where such inspectors shall be citizens and actual residents of the county wherein the city is situated, or in an abutting or adjacent county; except in any city with a population of less than twenty-five thousand, where such inspectors shall be citizens and actual residents of the county or counties wherein the city is situated. Before entering upon the discharge of their duties as such inspectors they shall each be required to obtain a certificate of competency from said examining board. They shall be entitled to receive compensation to be fixed by the officer, board, commission or department having power to fix salaries generally or, if there be no officer, board, commission or department thereof having such power, by the board of alderpersons or common council.

§ 49. Duties of inspectors; reports. The inspector or inspectors of plumbing appointed under the provisions of the preceding sections of this article, in addition to the duties prescribed by law or ordinance and those which may be enjoined or required by the appointing power of the city in which they shall be appointed, shall be to inspect the construction and alteration of all plumbing work performed in such city, and to report in writing the results of such inspection to such appointing power of their respective cities. They shall also report in like manner any person engaged in or carrying on the business of employing plumber, without having the certificate hereinbefore provided.

§ 50. Expiration and renewals of certificates and licenses. All certificates of registration issued under the provisions of the preceding sections of this article and all licenses authorizing connections with street sewers or water mains shall expire on the thirty-first day of December of the year in which they shall be issued, and may be renewed within thirty days preceding such expiration. Such renewals to be for one year from the first day of January in each year.

§ 51. Notice of violation of rules. Whenever any inspector or other person reports a violation of any such rules and regulations for plumbing and drainage, or a deviation from any officially approved plan or specification for plumbing and drainage filed with any board or department, the appointing power shall first serve a notice of the violation thereof upon the master plumber doing the work, if a registered plumber.

§ 52. Notice, how served; proceedings when violated not removed. Such notice may be served personally or by mail, and if by mail it may be addressed to such master plumber at the address registered by him, but the failure of a master plumber to register will relieve the official or board who or which appoints the plumbing inspector from the requirement of giving notice of violation. Unless the violation is removed within three days after the day of serving or mailing such notice, exclusive of

the day of serving or mailing, the official or board who or which appoints the plumbing inspector may proceed according to law.

§ 53. Plumbing and drainage to be executed according to rules. The plumbing and drainage of all buildings, both public and private, in each of the cities of this state, shall be performed by persons authorized under the rules and regulations adopted by the local board of examining plumbers, in conjunction with the board of health for plumbing and drainage, and all plumbing and drainage work shall be executed in compliance with such rules and regulations. And all repairs and alterations in the plumbing and drainage of all buildings heretofore constructed shall also be performed and executed in accordance with such rules and regulations; but this section shall not be construed to repeal any existing provision of law requiring plans for the plumbing and drainage of new buildings to be filed with any local board of health and be previously approved in writing by such board of health and be executed in accordance therewith, except that in case of any conflict with such plans, rules and regulations of the board of examiners, the latter shall govern.

§ 54. Office room; expenses a city charge. Each of such examining boards of plumbers shall have power to procure suitable quarters for the transaction of business, to provide the necessary books and stationery and to employ a clerk to keep such books and record the transactions of such board. The board of estimate and apportionment or the common council of a city as the case may be shall annually insert in their tax levy a sufficient sum to meet all the expenditures incurred under the provisions of this article. The expenses incurred by the several examining boards of plumbers in the execution and performance of the duties imposed by this article shall be a charge on the respective cities and shall be audited, levied, collected and paid in the same manner as other city charges are audited, levied, collected and paid.

§ 55. Violations, how punished. Any person violating any of the

provisions of this article, or any rules or regulations of the board of health or of the examining board of plumbers in any city regulating the plumbing and drainage of buildings in such city, shall be guilty of a misdemeanor, and on conviction, if a master plumber, shall in addition, forfeit any certificate of competency or registration, which he may hold under the provisions thereof.

§ 56. Issue of licenses to connect with sewers and water mains restricted. The commissioner of public works of any city, or the officer or officers acting in a like capacity in any of the cities of this state, and having charge of the sewers and water mains therein, shall not issue a license to any one to connect with the sewers or with the water mains of such cities, unless such person has obtained and shall produce a certificate of competency from the examining board of such city.

§ 56-a. Use by the state, individuals and corporations outside corporate limits. 1. Any city having a population of fifty thousand or less may sell to a public or private corporation, or to an individual, the right to make connection with its sewer system for the purpose of discharging sewage therein from outside the city limits, and fix the term, consideration and conditions therefor. The board shall not sell nor permit the use of its sewer system under this section if thereby such sewer system will be rendered inadequate for the city or its inhabitants. The term "public corporation" shall mean a public corporation as defined in section three of the general corporation law.

2. Any city having a population of fifty thousand or less may contract with the state of New York or with the state authority having control and supervision of any state institution, and the state of New York or the state authority having control and supervision of any state institution may contract with the board of sewer commissioners of any such city, to provide sewerage and sewage disposal facilities for the conveyance, treatment and disposal of the sewage of such state or state institution either within or without the corporate limit of said city on

such conditions and conveying such powers to the state or such state authority and for such consideration and such period of time as said sewer commissioners and the state of New York or such state authority may agree.

3. Any city having a population of fifty thousand or less may contract with the United States of America or with the federal agency, administration or authority having control and supervision of any federal institution or installation to provide sewerage and sewage disposal facilities for the conveyance, treatment and disposal of the sewage of such federal institution or installation either within or without the corporate limits of the city on such conditions, for such consideration and for such period of time as said sewer commissioners and the United States of America or such federal agency, administration or authority may agree.

§ 57. Article limited. 1. This article shall not apply to any of the following cities: New York, Binghamton, Schenectady, Elmira, Hornell, Olean, Poughkeepsie and Cortland.

2. This article, with the exception of section fifty-six-a thereof, shall not apply to the city of Glens Falls, the city of Middletown and the city of Beacon.