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# Charter of the City of New York (Draft)

New York City Charter Revision Commission

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**CHARTER  
OF THE  
CITY OF NEW YORK**

*Proposed by the*

**NEW YORK CITY CHARTER REVISION COMMISSION**

**August 1988**

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\* Old chapter 68, to be replaced by new chapter 68 according to transition provisions set forth in section 1152(c).

\*\* New chapter 68, replacing old chapter 68.

## Foreward

This document presents by brackets (for deletions) and underlining (for insertions) the revisions of the charter being recommended by the New York City Charter Revision Commission to the electors of the City of New York for their consideration at the November 8, 1988 general election.

The underlying document in which such deletions and insertions are shown is the charter adopted by the electors on November 7, 1961 as amended by the electors on November 4, 1975 and November 8, 1983 and by state and local laws through Chapter 697 of the Laws of 1987 and Local Law 52 of 1988. The revisions being presented to the voters for their consideration on November 8, 1988 are not intended to repeal any amendments made by state or local laws enacted subsequent to such Chapter 697 and Local Law 52 and prior to November 8, 1988, and not reflected in this document.

CITY OF NEW YORK

CITY CHARTER

INTRODUCTORY

Sec. 1. The city. The city of New York as now existing shall continue with the boundaries and with the powers, rights and property, subject to the obligations and liabilities which exist at the time when this charter shall take effect.

Sec. 2. The boroughs. The boroughs of the city are continued as existing at the time of the adoption of this charter.

## CHAPTER 1

## MAYOR

Sec. 3. Office powers. The mayor shall be the chief executive officer of the city. [Except as otherwise provided in section eleven, he may, by executive order, at any time, create or abolish bureaus, divisions or positions within his executive office as he may deem necessary to fulfill his duties. He may from time to time by executive order, delegate to or withdraw from any member of said office, specified functions, powers and duties, except his power to act on local laws or resolutions of the council, to act as a magistrate or to appoint or remove officials. Every such order shall be filed with the city clerk who shall forward them forthwith to the City Record for publication.]

Sec. 4. Election; term; salary. The mayor shall be elected at the general election in the year nineteen hundred sixty-five and every fourth year thereafter. The mayor shall hold office for a term of four years commencing on the first day of January after each such election. The salary of the mayor shall be one hundred thirty thousand dollars a year.

Sec. 5. Annual statement to council. The mayor shall communicate to the council at least once in each year a statement of the finances, government and affairs of the city with a summary statement of the activities of the agencies of the city.

Sec. 6. Heads of departments; appoint; remove. a. The mayor shall appoint the heads of administrations, departments, all



commissioners and all other officers not elected by the people, except as otherwise provided by law.

b. The mayor, whenever in his judgment the public interest shall so require, may remove from office any public officer holding office by appointment from a mayor of the city, except officers for whose removal other provision is made by law. No public officer shall hold his office for any specific term, except as otherwise provided by law.

Sec. 7. Deputy mayors. The mayor shall appoint one or more deputy mayors with such duties and responsibilities as the mayor determines[, including a deputy mayor to carry out, supervise and coordinate on behalf of the mayor and under his direction the fiscal and management reforms provided for in this charter or other law in the areas of budget, accounting, personnel and management practices].

Sec. 8. General powers. [a.] The mayor, subject to this charter, shall exercise all the powers vested in the city, except as otherwise provided by law.

a. The mayor shall be responsible for the effectiveness and integrity of city government operations and shall establish and maintain such policies and procedures as are necessary and appropriate to accomplish this responsibility including the implementation of effective systems of internal control by each agency and unit under the jurisdiction of the mayor.

b. The mayor shall be a magistrate.

c. Notwithstanding any other provision of law, the mayor shall

have the powers of a finance board under the local finance law and may exercise such powers without regard to any provision of law prescribing the voting strength required for a resolution or action of such finance board, provided, however, that whenever the mayor determines that obligations should be issued and the amount thereof, he shall certify such determination to the comptroller who shall thereupon determine the nature and term of such obligations and shall arrange for the issuance thereof.

d. The mayor shall establish a minimum per diem compensation for inspectors of election and clerks employed to assist the inspectors of election in polling places under the direction of the board of elections as follows: on registration and primary election days twenty dollars; on Election day thirty-five dollars, except that the chairman of each election board shall receive an additional three dollars compensation per day. The minimum per diem rate for compensation for election inspectors attending classes of instruction shall be five dollars.

e. The mayor shall establish a professional internal audit  
<sup>in the executive office of the mayor</sup>  
function at the mayoral level which is sufficient to provide the  
<sup>^</sup>  
mayor with such information and assurances as the mayor, as the  
chief executive of the city, requires to ensure the proper  
administration of the city's affairs and the efficient conduct of  
its business.

f. Except as otherwise provided in section eleven, the mayor  
may, by executive order, at any time, create or abolish bureaus,  
divisions or positions within the executive office of the mayor as



he or she may deem necessary to fulfill mayoral duties. The mayor may from time to time by executive order, delegate to or withdraw from any member of said office, specified functions, powers and duties, except the mayor's power to act on local laws or resolutions of the council, to act as a magistrate or to appoint or remove officials. Every such order shall be filed with the city clerk who shall forward them forthwith to the City Record for publication.

Sec. 9. Removal of mayor. The mayor may be removed from office by the governor upon charges and after service upon him of a copy of the charges and an opportunity to be heard in his defense. Pending the preparation and disposition of charges, the governor may suspend the mayor for a period not exceeding thirty days.

Sec. 10. Succession. a. In case of the suspension of the mayor from office, [his] the mayor's temporary inability to discharge the powers and duties of [his] the office of mayor by reason of sickness or otherwise, or [his] the mayor's absence from the city, the powers and duties of the office of mayor shall devolve upon the president of the council or the comptroller in that order of succession until the suspension, inability or absence shall cease. While so acting temporarily as mayor neither the president of the council nor the comptroller shall exercise any power of appointment to or removal from office or any power lawfully delegated by the mayor to a deputy mayor [whether] before [or after] the commencement of such suspension[,], or inability, or

before or after the commencement of such absence; and shall not, until such suspension, inability or absence shall have continued nine days, sign, approve or disapprove any local law or resolution, unless the period during which the mayor can act thereon would expire during said nine days in which case the president of the council or the comptroller shall have the power to disapprove the same within forty-eight hours before the time to act expires.

b. In the case of a failure of a person elected as mayor to qualify, or a vacancy in the office caused by the mayor's resignation, removal, death or permanent inability to discharge [his] the powers and duties of the office of mayor, such powers and duties shall devolve upon the president of the council, the comptroller or a person selected pursuant to subdivision b of section twenty-seven, in that order of succession, until a new mayor shall be elected as provided herein. If the vacancy shall occur before the twentieth day of September in any year, such vacancy shall be filled in the general election held in that year, otherwise it shall be filled in the general election held in the following year. The term of the person then elected mayor shall begin on January first after such election and shall expire on the date when the term of the mayor originally elected would have expired. Upon the commencement of the term of the thus elected mayor, the president of the council or the comptroller then acting as mayor shall complete the term of the office to which [he] such person was elected if any remains.

c. Determination of mayoral inability.

1. Voluntary declaration of temporary inability. Whenever the mayor transmits to the official next in line of succession and to the city clerk, a written declaration that he or she is temporarily unable to discharge the powers and duties of the office of mayor, such powers and duties shall devolve upon the official next in line of succession, subject to the provisions of subdivision a of this section. Thereafter if the mayor transmits to the acting mayor and to the city clerk a written declaration that he or she is able to resume the discharge of the powers and duties of the office of mayor, the mayor shall resume the discharge of such powers and duties immediately upon the receipt of such declaration by the city clerk.

2. Inability committee. (a) There shall be a committee on mayoral inability consisting of: the corporation counsel, the comptroller, the vice-chair of the council, a deputy mayor who shall be designated by the mayor, and the borough president with the longest consecutive service as borough president. If two or more borough presidents have served for an equal length of time, one of such borough presidents shall be selected by lot to be a member of such committee. If at any time there is no valid mayoral designation in force, the deputy mayor with the longest consecutive service as a deputy mayor shall be a member of such committee. The authority to act as a member of such committee shall not be delegable.

(b) Such committee by affirmative declaration of no fewer than

four of its members shall have the power to make the declarations described in paragraphs four and five of this subdivision. No such declaration shall be effective unless signed by all the members making it.

3. Panel on mayoral inability. (a) There shall be a panel on mayoral inability. Unless otherwise provided by state law, such panel shall consist of all the members of the council.

(b) The panel shall have the power to make the determinations described in paragraphs four and five of this subdivision.

4. Temporary inability. (a) Whenever the committee on mayoral inability personally serves or causes to be personally served upon the mayor and transmits to the official next in line of succession, the members of the panel on mayoral inability and the city clerk, its written declaration that the mayor is temporarily unable to discharge the powers and duties of the office of mayor, together with a statement of its reasons for such declaration, such declaration shall constitute a determination of temporary inability unless the mayor, within forty-eight hours after receipt of such declaration, transmits to the official next in line of succession, the members of the committee on mayoral inability, the members of the panel on mayoral inability and the city clerk, a written declaration that he or she is able to discharge the powers and duties of the office of mayor, together with responses to the statement by the committee on mayoral inability of its reasons for its declaration.

(b) If personal service of the committee's declaration upon the



mayor cannot be accomplished, or if such service has been accomplished but the mayor has not transmitted a declaration that he or she is able to discharge the powers and duties of the office of mayor within forty-eight hours after receipt of such declaration, such powers and duties shall devolve upon the official next in line of succession, subject to the provisions of subdivision a of this section, unless and until the mayor resumes the authority to discharge such powers pursuant to the provisions of subparagraphs (e) or (f) of this paragraph.

(c) If within such forty-eight hours, the mayor transmits a declaration that he or she is able to discharge the powers and duties of the office of mayor, such powers and duties shall not devolve upon the official next in line of succession and the mayor shall continue to discharge the powers and duties of the office of mayor, unless and until the panel on mayoral inability, within twenty-one days after its receipt of the mayor's declaration, determines by two-thirds vote of all its members that the mayor is temporarily unable to discharge the powers and duties of the office of mayor. If the panel determines that the mayor is unable to discharge the powers and duties of the office of mayor, such powers and duties shall devolve upon the official next in line of succession, subject to the provisions of subdivision a of this section, unless and until the mayor resumes the authority to discharge such powers and duties pursuant to the provisions of subparagraphs (e) or (f) of this paragraph.

(d) If, at any time prior to a final determination by the

panel pursuant to subparagraph (c) of this paragraph the mayor transmits a voluntary declaration of temporary inability pursuant to the provisions of paragraph one of this subdivision, to the official next in line of succession, the members of the committee on mayoral inability, the members of the panel on mayoral inability, and the city clerk, then the procedures set forth in paragraph one of this subdivision shall be followed.

(e) If a determination of temporary inability has been made pursuant to the provisions of subparagraphs (a) or (c) of this paragraph, and if thereafter, the mayor transmits to the acting mayor, the members of the committee on mayoral inability, the members of the panel on mayoral inability and the city clerk, a written declaration that he or she is able to resume the discharge of the powers and duties of the office of mayor, then the mayor shall resume the discharge of such powers and duties four days after the receipt of such declaration by the city clerk, unless the committee on mayoral inability, within such four days, personally serves or causes to be personally served upon the mayor and transmits to the acting mayor, the members of the panel on mayoral inability and the city clerk, its written declaration that the mayor remains unable to discharge the powers and duties of the office of mayor.

(f) If the committee transmits a declaration that the mayor remains unable to discharge the powers and duties of the office of mayor, the mayor shall not resume the discharge of the powers and duties of the office of mayor unless and until the panel on

mayoral inability, within twenty-one days of its receipt of such declaration, determines by two-thirds vote of all its members that the inability has in fact ceased. Upon such a determination by the panel, or after the expiration of twenty-one days, if the panel has not acted, the mayor shall resume the discharge of the powers and duties of the office of mayor.

5. Permanent inability. (a) Whenever the committee on mayoral inability personally serves or causes to be personally served upon the mayor and transmits to the official next in line of succession, the members of the panel on mayoral inability and the city clerk, its declaration that the mayor is permanently unable to discharge the powers and duties of the office of mayor, together with its reasons for such declaration, the panel on mayoral inability shall, within twenty-one days after its receipt of such declaration, determine whether or not the mayor is permanently unable to discharge the powers and duties of the office of mayor.

(b) If the panel determines by two-thirds vote of all its members that the mayor is permanently unable to discharge the powers and duties of the office of mayor, such powers and duties shall devolve upon the official next in line of succession as acting mayor pursuant to subdivision b of this section, and the office of mayor shall be deemed vacant.

6. Continuation of salary; disability allowance. (a) During the time that any official is acting as mayor pursuant to a determination of temporary inability, the mayor shall continue to

be paid the salary of the office of mayor, and the acting mayor shall continue to be paid the salary of the office to which such person was elected.

(b) Any mayor who has been determined to be permanently unable to discharge the powers and duties of the office of mayor pursuant to paragraph five of this subdivision shall continue to receive from the city, a sum which together with the mayor's disability benefits and retirement allowance, if any, computed without optional modification, shall equal the annual salary which such mayor was receiving at the time of the determination of permanent inability. Such disability allowance shall begin to accrue on the date of the determination of permanent inability and shall be payable on the first day of each month until the expiration of the term for which such mayor had been elected or such mayor's death, whichever shall occur first. Such mayor shall apply for any retirement allowance or disability benefits to which he or she may be entitled and the disability allowance provided for in this section shall not reduce or suspend such retirement allowance or disability benefits, notwithstanding any other provision of law.

Sec. 11. Reorganization of agencies under jurisdiction of mayor. a. The agencies existing on the effective date of this section are continued except as otherwise provided in the charter or as otherwise provided by state or local law enacted since that date or by any actions taken by the mayor pursuant to this section since that date. To achieve effective and efficient functioning



and management of city government, the mayor may organize or reorganize any agency under his jurisdiction, including the authority to transfer functions from one agency to another; create new agencies; eliminate existing agencies; and consolidate or merge agencies. Any action by the mayor pursuant to this subdivision shall be termed a "reorganization plan" and shall be published in the City Record.

b. In preparing reorganization plans, the mayor shall eliminate, as appropriate, agencies or functions which duplicate or overlap similar agencies of, or functions performed by, other agencies of city, state or local government.

c. If any proposed reorganization plan involves a change of a provision of this charter, except as provided pursuant to [subsection] subdivision f of this section, or local law now in effect, or otherwise involves reorganization of an agency created pursuant to a resolution of the board of estimate or executive order of the mayor, a copy of the reorganization plan first shall be submitted to the council. Within a period of ninety days from the date of receipt, the council may adopt a resolution that approves or disapproves the reorganization plan. In the event the council takes no action within the ninety-day period, the reorganization plan shall be deemed approved as if the council had taken affirmative action, and is then effective.

d. The text of a reorganization plan approved pursuant to [subsection] subdivision c of this section shall appear as a part of the administrative code.

e. The mayor may withdraw or modify a reorganization plan submitted to the council before any final action by the council with respect to it.

f. The authority of the mayor pursuant to this section shall not apply (1) to any matter which would otherwise require the submission of a local law for the approval of the electors pursuant to section thirty-nine, or (2) to any board or commission established pursuant to a provision of this charter.

Sec. 12. Mayor's management report. a. Not later than January thirtieth in each year the mayor shall make public and submit to the council and to the board of estimate a preliminary management report of the city and not later than September seventeenth in each year the mayor shall make public and submit to the council and to the board of estimate a management report.

b. The preliminary management report shall contain for each city agency

(1) a statement of actual performance for the first four months of the current fiscal year relative to goals and measures;

(2) proposed program and performance goals and measures for the next fiscal year reflecting budgetary decisions made as of the date of submission of the plan; and

(3) an explanation in narrative and/or tabular form of significant changes in performance goals and indicators from the adopted budget condition to the current budget as modified and from said modified budget to the preliminary budget statements.

c. The management report shall contain for each agency

(1) program and performance goals for the current fiscal year and a statement and explanation of performance measures; [and]

(2) a statement of actual performance for the entire previous fiscal year relative to goals; and

(3) a statement of the status of the agency's internal control environment and systems, including a summary of any actions taken during the previous fiscal year, and any actions being taken during the current fiscal year to strengthen the agency's internal control environment and system.

(4) a summary of rulemaking actions undertaken by the agency during the past fiscal year including

(a) the number of rulemaking actions taken,

(b) the number of such actions which were not noticed in the regulatory agenda prepared for such fiscal year, including a summary of the reasons such rules were not included in such regulatory agenda, and

(c) the number of such actions which were adopted under the emergency rulemaking procedures.

d. For agencies with local service districts or programs within community districts and boroughs, the mayor's preliminary management report and management report insofar as practicable shall include schedules of agency service goals, performance measures and actual performance relative to goals for each such local service district or program.

e. Prior to April eighth in each year the council shall

conduct public hearings jointly with the board of estimate on the preliminary management report and on the proposed program and performance goals and measures of city agencies contained in such report. The council and the board of estimate shall submit to the mayor and make public not later than April eighth a report or reports of findings and recommendations.

Sec. 13. Coordinator of criminal justice. There is established in the executive office of the mayor a position of coordinator of criminal justice, to be appointed by the mayor. The coordinator shall:

(1) advise and assist the mayor in planning for increased coordination and cooperation among agencies under the jurisdiction of the mayor that are involved in criminal justice programs and activities;

(2) review the budget requests of all agencies for programs related to criminal justice and recommend to the mayor budget priorities among such programs; and,

(3) perform such other duties as the mayor may assign.

Sec. 14. Office of veterans' affairs (a). There shall be an office of veterans' affairs, the head of which shall be the director of veterans' affairs, who shall be appointed by the mayor.

(b) Definition. The term "veteran" means a person who has served in the active military service of the United States and who has been released from such service otherwise than by dishonorable discharge.



(c) Powers and duties. The office: 1. shall have such powers as provided by the director of the state veterans' service agency and shall have the duty to inform military and naval authorities of the United States and assist members of the armed forces and veterans, who are residents of this state, and their families, in relation to (a) matters pertaining to educational training and retraining services and facilities, (b) health, medical and rehabilitation service and facilities, (c) provisions of federal, state and local laws and regulations affording special rights and privileges to members of the armed forces and veterans and their families, (d) employment and re-employment services, and (e) other matters of similar, related or appropriate nature. The office also shall perform such other duties as may be assigned by the state director of the division of veterans' affairs;

2. shall utilize, so far as possible, the services, commissions, boards, bureaus, institutions and other agencies of the state and of the political subdivisions thereof and all such officers and agencies shall cooperate with and extend such services and facilities to the office as it may require.

(d) Veterans' advisory board. There shall be a veterans' advisory board consisting of five members, three of whom shall be appointed by the mayor and two of whom shall be appointed by the vice-chairman of the council of the city of New York. All members shall serve for a term of three (3) years. The board shall advise the director on all matters concerning veterans.

## CHAPTER 2

## COUNCIL

Sec. 21. Legislative power. In addition to the other powers vested in it by this charter, the council shall be vested with the legislative power of the city, and shall be the local legislative body of the city.

Sec. 22. Composition of council. a. The council shall consist of the president of the council and of other members termed council members.

b. One council member shall be elected from each council district as now or hereafter constituted.

Sec. 23. President of the council. a. The president of the council shall be elected by the electors of the city at the same time and for the same term as in this charter prescribed for the mayor.

b. The president of the council may be removed or suspended in the same manner as provided in this charter with respect to the mayor.

c. Any vacancy in the office of council president shall be filled by popular election in the following manner:

1. Within three days of the occurrence of a vacancy in the office of the council president, the mayor shall proclaim the date for the election or elections required by this subdivision, provide notice of such proclamation to the city clerk and the board of elections and publish notice thereof in the City Record.

After the proclamation of the date for an election to be held pursuant to paragraphs four or five of this subdivision, the city clerk shall publish notice thereof not less than twice in each week preceding the date of such election in newspapers distributed within the city, and the board of elections shall mail notice of such election to all registered voters within the city.

2. If a vacancy occurs during the first three years of the term, a general election to fill the vacancy for the remainder of the unexpired term shall be held in the year in which the vacancy occurs, unless the vacancy occurs after the last day on which an occurring vacancy may be filled at the general election in that same year with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law. If such a vacancy occurs in any year after such last day, it shall be filled for the remainder of the unexpired term at the general election in the following year provided, however, that no general election to fill a vacancy shall be held in the last year of the term, except as provided in paragraph nine of this subdivision. Party nominations of candidates for a general election to fill a vacancy for the remainder of the unexpired term shall be made at a primary election, except as provided in paragraph five of this subdivision.

3. If a special or general election to fill the vacancy on an interim basis has not been previously held pursuant to paragraphs four, six, seven and eight of this subdivision, the person elected to fill the vacancy for the remainder of the unexpired term at a

general election shall take office immediately upon qualification and shall serve until the term expires. If a special or general election to fill the vacancy on an interim basis has been previously held, the person elected to fill the vacancy for the remainder of the unexpired term at a general election shall take office on January first of the year following such general election and shall serve until the term expires.

4. If a vacancy occurs during the first three years of the term and on or before the last day in the third year of the term on which an occurring vacancy may be filled for the remainder of the unexpired term at a general election with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law, a special or general election to fill the vacancy on an interim basis shall be held, unless the vacancy occurs less than ninety days before the next primary election at which party nominations for a general election to fill the vacancy may be made and on or before the last day on which an occurring vacancy may be filled for the remainder of the unexpired term at the general election in the same year in which the vacancy occurs with party nominations of candidates for such election being made at a primary election, as provided on section 6-116 of the election law.

5. If a vacancy occurs after the last day in the third year of the term on which an occurring vacancy may be filled for the remainder of the unexpired term at a general election in such year with party nominations of candidates for such election being made



at a primary election, as provided in section 6-116 of the election law, but not less than ninety days before the date of the primary election in the fourth year of such term, a special or general election to fill such vacancy for the remainder of the unexpired term shall be held.

6. Elections held pursuant to paragraph four or five of this subdivision shall be scheduled in the following manner: A special election to fill the vacancy shall be held on the first Tuesday at least forty-five days after the occurrence of the vacancy, provided that the mayor, in the proclamation required by paragraph one of this subdivision, may schedule such election for another day no more than ten days after such Tuesday and not less than forty days after such proclamation if the mayor determines that such rescheduling is necessary to facilitate maximum voter participation; except that

(a) if the vacancy occurs before September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is less than ninety days before a regularly scheduled general election or between a primary and a general election, the vacancy shall be filled at such general election;

(b) if the vacancy occurs before September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is after a regularly scheduled general election, the vacancy shall be filled at such general election; and

(c) if the vacancy occurs on or after September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is after, but less than thirty days after, a regularly scheduled general election, the vacancy shall be filled at a special election to be held on the first Tuesday in December in such year.

7. All nominations for elections to fill vacancies held pursuant to paragraphs four and five of this subdivision shall be by independent nominating petition. A signature on an independent nominating petition made earlier than the date of the proclamation required by paragraph one of this subdivision shall not be counted.

8. A person elected to fill a vacancy in the office of council president at an election held pursuant to paragraph four of this subdivision shall take office immediately upon qualification and serve until December thirty-first of the year in which the vacancy is filled for the remainder of the unexpired term pursuant to paragraph two of this subdivision. A person elected to fill a vacancy in the office of council president at an election held pursuant to paragraph five of this subdivision shall take office immediately upon qualification and serve until the term expires.

9. If a vacancy occurs less than ninety days before the date of the primary election in the last year of the term, the person elected at the general election in such year for the next succeeding term shall take office immediately upon qualification

and fill the vacancy for the remainder of the unexpired term.

[c.] d. The president of the council may, by written authority filed with the board of estimate and with the city clerk, designate any two officers or employees appointed by [him] the president to exercise the powers specified in this subdivision. Either such officer or employee, so designated, may act in the place of the president of the council as a member of the board of estimate whenever the president of the council, although present in the city, shall be absent from a meeting of said board for any reason whatever.

[d.] e. The president of the council shall preside over the meetings of the council and shall have the right to participate in the discussion of the council but shall not have a vote except in case of a tie.

[e.] f. In addition to [his] other duties and responsibilities, the president of the council shall (1) oversee the coordination of city-wide citizen information and service complaint programs, and (2) review complaints of a recurring and multiborough or city-wide nature relating to services and programs, and make proposals to improve the city's response to and processing of such complaints.

Sec. 24. Election; term; vacancies. a. The council members shall be elected at the general election in the year nineteen hundred seventy-seven and every fourth year thereafter. The term of office of each council member shall commence on the first day of January after the election and shall continue for four years thereafter.

b. Any vacancy which may occur among the council members shall be filled by popular election [by a majority of all the council members remaining in office, of a person who must be of the same political party of which the council member whose place has become vacant was the candidate on the ballot if such council member was elected as the candidate of any political party and who must be a resident of the district from which such council member was elected. In the case of a candidate who was listed on the ballot as the candidate for two or more political parties, such candidate shall, for the purposes of this section, be deemed to be the candidate of the party for which he received the highest number of votes.] in the following manner.

1. Within three days of the occurrence of a vacancy in the council, the mayor shall proclaim the date for the election or elections required by this subdivision, provide notice of such proclamation to the city clerk and the board of elections and publish notice thereof in the City Record. After the proclamation of the date for an election to be held pursuant to paragraphs four or five of this subdivision, the city clerk shall publish notice thereof not less than twice in each week preceding the date of such election in newspapers distributed within the city, and the board of elections shall mail notice of such election to all registered voters within the district in which the election is to be held.

2. If a vacancy occurs during the first three years of the term, a general election to fill the vacancy for the remainder of



the unexpired term shall be held in the year in which the vacancy occurs, unless the vacancy occurs after the last day on which an occurring vacancy may be filled at the general election in that same year with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law. If such a vacancy occurs in any year after such last day, it shall be filled for the remainder of the unexpired term at the general election in the following year provided, however, that no general election to fill a vacancy shall be held in the last year of the term, except as provided in paragraph nine of this subdivision. Party nominations of candidates for a general election to fill a vacancy for the remainder of the unexpired term shall be made at a primary election, except as provided in paragraph five of this subdivision.

3. If a special or general election to fill the vacancy on an interim basis has not been previously held pursuant to paragraphs four, six, seven and eight of this subdivision, the person elected to fill the vacancy for the remainder of the unexpired term at a general election shall take office immediately upon qualification and shall serve until the term expires. If a special or general election to fill the vacancy on an interim basis has been previously held, the person elected to fill the vacancy for the remainder of the unexpired term at a general election shall take office on January first of the year following such general election and shall serve until the term expires.

4. If a vacancy occurs during the first three years of the

term and on or before the last day in the third year of the term on which an occurring vacancy may be filled for the remainder of the unexpired term at a general election with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law, a special or general election to fill the vacancy on an interim basis shall be held, unless the vacancy occurs less than ninety days before the next primary election at which party nominations for a general election to fill the vacancy may be made and on or before the last day on which an occurring vacancy may be filled for the remainder of the unexpired term at the general election in the same year in which the vacancy occurs with party nominations of candidates for such election being made at a primary election, as provided on section 6-116 of the election law.

5. If a vacancy occurs after the last day in the third year of the term on which an occurring vacancy may be filled for the remainder of the unexpired term at a general election in each year with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law, but not less than ninety days before the date of the primary election in the fourth year of such term, a special or general election to fill such vacancy for the remainder of the unexpired term shall be held.

6. Elections held pursuant to paragraph four or five of this subdivision shall be scheduled in the following manner: A special election to fill the vacancy shall be held on the first Tuesday at

least forty-five days after the occurrence of the vacancy, provided that the mayor, in the proclamation required by paragraph one of this subdivision, may schedule such election for another day no more than ten days after such Tuesday and not less than forty days after such proclamation if the mayor determines that such rescheduling is necessary to facilitate maximum voter participation; except that

(a) if the vacancy occurs before September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is less than ninety days before a regularly scheduled general election or between a primary and a general election, the vacancy shall be filled at such general election;

(b) if the vacancy occurs before September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is after a regularly scheduled general election, the vacancy shall be filled at such general election; and

(c) if the vacancy occurs on or after September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is after, but less than thirty days after, a regularly scheduled general election, the vacancy shall be filled at a special election to be held on the first Tuesday in December in such year.

7. All nominations for elections to fill vacancies held pursuant to paragraphs four and five of this subdivision shall be

by independent nominating petition. A signature on an independent nominating petition made earlier than the date of the proclamation required by paragraph one of this subdivision shall not be counted.

8. A person elected to fill a vacancy in the council at an election held pursuant to paragraph four of this subdivision shall take office immediately upon qualification and serve until December thirty-first of the year in which the vacancy is filled for the remainder of the unexpired term pursuant to paragraph two of this subdivision. A person elected to fill a vacancy in the council at an election held pursuant to paragraph five of this subdivision shall take office immediately upon qualification and serve until the term expires.

9. If a vacancy occurs less than ninety days before the date of the primary election in the last year of the term, the person elected at the general election in such year for the next succeeding term shall take office immediately upon qualification and fill the vacancy for the remainder of the unexpired term.

Sec. 25. Salaries. a. The salary of the president of the council shall be one hundred five thousand dollars a year.

b. The salary of each council member shall be fifty-five thousand dollars a year.

Sec. 26. Local laws. Except as otherwise provided by law, all legislative action by the council shall be by local law. The style of local law shall be "Be it enacted by the council as follows."



Sec. 27. Powers of council. a. Any enumeration of powers in this charter shall not be held to limit the legislative power of the council except as in this charter specifically provided. The council in addition to all enumerated powers shall have power to adopt local laws as to it may seem meet, which are not inconsistent with the provisions of this charter or with the constitution or laws of the United States or this state, for the good rule and government of the city; for the order, protection and government of persons and property; for the preservation of the public health, comfort, peace and prosperity of the city and its inhabitants; and to effectuate the purposes and provisions of this charter or of the other laws relating to the city. The council shall have power to provide for the enforcement of local laws by legal or equitable proceedings, to prescribe that violations thereof shall constitute misdemeanors, offenses or infractions and to provide for the punishment of violations thereof by civil penalty, fine, forfeiture or imprisonment, or by two or more of such punishments.

b. In the event that there exists no other provision of law for the filling of a vacancy in any elective office, resulting from removal or suspension from such office, or the death, resignation or inability of the incumbent to exercise the powers or to discharge the duties of the office, the council by a majority vote of all the council members shall elect a successor to fill the vacancy in such office.

c. All local laws shall be general, applying either throughout

the whole city or throughout specified portions thereof.

d. The council shall not pass any local law authorizing the placing or continuing of any encroachment or obstruction upon any street or sidewalk excepting temporary occupation thereof by commercial refuse containers or during and for the purpose of the erection, repairing or demolition of a building on a lot abutting thereon under revocable licenses therefor, and excepting the erection of booths, stands or displays or the maintenance of sidewalk cafes under licenses to be granted only with the consent of the owner of the premises if the same shall be located in whole or in part within stoop lines; any such commercial refuse containers thus placed or continued upon any street or sidewalk pursuant to such a revocable license shall be painted with a phosphorescent substance so that the dimensions thereof shall be clearly discernible at night.

e. All local laws in relation to licenses shall fix the license fees to be paid, if any, and shall provide that all licenses shall be according to an established form and shall be regularly numbered and duly registered.

f. The council shall hold a public hearing prior to the consideration of any resolution requesting the state legislature, in accordance with the provisions of section two of article nine of the Constitution of the state of New York, to pass any bill, the substance of which, if adopted by the council as a local law, would require its approval by the electorate voting thereon at a referendum. Notice of such public hearing shall be published in

the City Record for at least five days immediately preceding the commencement of such a hearing.

Sec. 28. Meetings. The first meeting of the council in each year shall be held on the first Wednesday after the first Monday of January at noon. The stated and occasional meetings of the council shall be held as provided by its rules; provided, however, that at least two stated meetings shall be held each month, except in its discretion in July and August. A majority of the council members shall constitute a quorum.

Sec. 29. Special meetings. The mayor may at any time call special meetings of the council. He shall also call a special meeting when a requisition for that purpose signed by five council members has been presented to him. Not less than one day before a special meeting is held, notice of the time thereof and of the business proposed to be transacted, signed by the mayor, shall be published in the City Record, and at the same time the city clerk shall cause a copy of such notice to be left at or sent by post to the usual place of abode or of business of each council member; but want of service of a notice upon any council member shall not affect the validity of the meeting. No business shall be transacted at such special meetings other than that specified in the notice relating thereto.

Sec. 30. Vice-Chairman. The council shall elect from among the council members a vice-chairman, who shall temporarily possess the powers and perform the duties of the president of the council when the president is absent or while the president is acting as

mayor, or when a vacancy occurs in the office of the president, and the vice-chairman shall, during such times, retain [his] the right to vote in the council, except that during the time when filling a vacancy in the office of the president the vice-chairman shall have the right to vote only in case of a tie, and shall be a member of every board of which the president of the council is a member by virtue of his office, except that such vice-chairman shall not be a member of the board of estimate unless the president of the council is acting as mayor under subdivision b of section ten or in case of the failure of a person elected as president of the council to qualify or a vacancy in the office caused by the president's resignation, removal, death or permanent inability to discharge powers and duties. In any such event, the vice-chairman shall act as president of the council with all powers and duties of said office.

Sec. 31. Sergeant-at-arms; procedure; expulsion of members. The council may elect a sergeant-at-arms and such research, drafting, clerical and other assistants as are needful to its purposes, within the appropriation provided therefor. The council shall determine the rules of its own proceedings at the first organizational meeting of the council in each year and shall file a copy with the city clerk; it may appoint committees and shall appoint a finance committee properly staffed to consider budgetary and related matters; shall be the judge of the election returns and qualifications of its own members, subject, however, to review by any court of competent jurisdiction; shall keep a journal of



its proceedings; shall sit with open doors; shall have authority to compel the attendance of absent members and to punish its members for disorderly behavior, and to expel any member, after charges and a hearing, with the concurrence of two-thirds of all the council members.

Sec. 32. City clerk; duties. a. The council shall appoint a clerk, who shall perform such duties as may be prescribed by law. The clerk so appointed shall be the city clerk and the clerk of the council, and shall hold his office for six years and until his successor shall be appointed and has qualified. The city clerk shall have charge of all the papers and documents of the city, except such as are by law committed to the keeping of the several departments or of other officers. He shall keep the record of the proceedings of the council. He shall also keep a separate record of all the local laws of the city in a book to be provided for that purpose, with proper indices, which book shall be deemed a public record of such local laws, and each local law shall be attested by said clerk. He shall also keep a separate and public record which shall be known as the "street franchise book." In such record he shall forthwith file a copy duly certified by or under the authority of the board of estimate granting, making or adopting the same, of every grant, franchise, contract or resolution in the nature of a franchise which shall hereafter be granted, made or adopted by said board, together with copies of all formalities of the execution or verification thereof, and shall forthwith, after so filing the same, transmit to the board a

copy of such record, with a minute of the date and volume thereof, duly certified by him. Copies of all papers duly filed in his office, and transcripts thereof and of the records of proceedings of the council and copies of the laws, ordinances and local laws of the city, certified by him under the corporate seal of the city, shall be admissible in evidence in all courts and places in the same manner and for the same purposes as papers or documents similarly authenticated by the clerk of a county. The city clerk may be removed on charges by a two-third vote of all the council members, subject, however, to judicial review. He shall collect such fees as shall be fixed by law.

b. It shall be the duty of the city clerk to keep open for inspection at all reasonable times the records and minutes of the proceedings of the council. He shall keep the seal of the city, and his signature shall be necessary to all grants and other documents, except as otherwise provided by law. In the absence of the clerk by sickness or otherwise, his first deputy shall be vested with and possessed of all the rights and powers and be charged with all the duties by law imposed upon the clerk. In the absence of the first deputy clerk, the city clerk by an instrument in writing may designate one of his clerks, who shall be vested with and possessed of all the rights and powers and charged with all the duties by law imposed upon said clerk. The signature of the person so designated shall be in place of and of the same force and effect as the signature of the city clerk. Such designation shall be made in triplicate and shall be duly filed

and remain of record in the city clerk's office and in the offices of the mayor and of the comptroller, but the designation shall be for a period not exceeding three months and shall not extend beyond the city clerk's term of office and shall be at all times revocable by the city clerk.

Sec. 33. Council members not to be employees of agencies. No council member shall be an employee of any agency in any capacity whatever.

Sec. 34. Vote required for local law or resolution. Except as otherwise provided by law, no local law or resolution shall be passed except by at least the majority affirmative vote of all the council members.

Sec. 35. Ayes and noes. On the final passage of a local law or resolution the question shall be taken by ayes and noes, which shall be entered in the journal of proceedings.

Sec. 36. Local laws; subject and title. Every local law shall embrace only one subject. The title shall briefly refer to the subject-matter.

Sec. 37. Local laws; passage. No local law shall be passed until it shall have been in its final form and upon the desks of the council members at least seven calendar days, exclusive of Sundays, prior to its final passage, unless the mayor shall have certified as to the necessity for its immediate passage and such local law be passed by the affirmative vote of two-thirds of all the council members.

Sec. 38. Local laws; action by mayor. a. Every local law

certified by the clerk of the council, after its passage by the council, shall be presented to the mayor for approval.

b. If the mayor approves the local law, he shall sign it and return it to the clerk; it shall then be deemed to have been adopted. If he disapproves it, he shall return it to the clerk with his objections stated in writing and the clerk shall present the same with such objections to the council at its next regular meeting and such objections shall be entered in its journal. The council within thirty days thereafter may reconsider the same. If after such reconsideration the votes of two-thirds of all the council members be cast in favor of repassing such local law, it shall be deemed adopted, notwithstanding the objections of the mayor. Only one vote shall be had upon such reconsideration. The vote shall be taken by ayes and noes, which shall be entered in the journal. If within thirty days after the local law shall have been presented to him, the mayor shall neither approve nor return the local law to the clerk with his objections, it shall be deemed to have been adopted in like manner as if he had signed it. At any time prior to the return of a local law by the mayor, the council may recall the same and reconsider its action thereon.

Sec 39. Local laws; referendum. A local law shall be submitted for the approval of the electors at the next general election held not less than sixty days after the adoption thereof, and shall become operative as prescribed therein only when approved at such election by the affirmative vote of a majority of the qualified electors of the city voting upon the proposition, if



it:

1. Abolishes or changes the form or composition of the council or the board of estimate or increases or decreases the number of votes any member is entitled to cast.

2. Changes the veto power of the mayor.

3. Changes the law of succession to the mayoralty.

4. Abolishes an elective office, or changes the method of nominating, electing or removing an elective officer, or changes the term of an elective officer, or reduces the salary of an elective officer during his term of office.

5. Abolishes, transfers or curtails any power of an elective officer.

6. Creates a new elective office.

7. Changes a provision of law relating to public utility franchises.

8. Changes a provision of law relating to the membership or terms of office of the city civil service commission.

9. Reduces the salary or compensation of a city officer or employee or increases his hours of employment or changes his working conditions if such salary, compensation, hours or conditions have been fixed by a state statute and approved by the vote of the qualified electors of the city; and no provision effecting such reductions, increases or changes contained in any local law or proposed new charter shall become effective unless the definite question with respect to such reductions, increases or changes shall be separately submitted and approved by the

affirmative vote of a majority of the qualified electors voting thereon.

10. Provides a new charter for the city.

11. Transfers powers vested by this charter in an agency the head of which is appointed by the mayor to an agency the head of which is not so appointed or vice versa, other than transfers of power authorized by this charter from an agency the head of which is appointed by the mayor to a community board, borough president or a borough board.

12. Dispenses with a provision of this charter requiring a public notice and hearing as a condition precedent to official action.

13. Dispenses with a requirement of this charter for public bidding or for public letting of contracts except as otherwise provided pursuant to chapter thirteen of this charter.

14. Changes a provision of this charter governing the classes or character of city bonds or other obligations, the purposes for which or the amount in which any class of obligations may be issued.

15. Removes restrictions in this charter on the sale, lease or other disposition of city property.

16. Curtails the powers of the city planning commission, or changes the vote in the council or the board of estimate required to take action without or contrary to the recommendation of the city planning commission.

17. Repeals or amends this section or any of the following

sections of this charter; sections forty-two, one hundred ninety-one, one hundred ninety-two, one hundred ninety-three, one hundred ninety-nine, two hundred, two hundred twenty-five, eleven hundred ten, eleven hundred eleven, eleven hundred fifteen, eleven hundred sixteen, eleven hundred seventeen, eleven hundred eighteen, and eleven hundred twenty-three.

18. Repeals or amends sections eleven hundred sixteen, twenty-six hundred one, twenty-six hundred four, twenty-six hundred five, and twenty-six hundred six [and twenty-six hundred seven] insofar as they relate to elected officials and section twenty-six hundred two.

Sec. 40. Reconsideration. At any time prior to the election at which a local law is to be submitted to the electors for approval pursuant to this charter, the council, not later than fifteen days prior to the election, may reconsider its action thereon and repeal such local law without submission to the mayor, whereupon the proposition for its approval shall not be submitted at such election, or if submitted the vote of the electors thereon shall be without effect.

Sec 41. Power of investigation. Each standing committee of the council may investigate any matters within its jurisdiction relating to the property, affairs, or government of the city or of any county within the city. The council may from time to time appoint a special committee to investigate any matters relating to the property, affairs or government of the city or of any county within the city. Any such standing or special committee shall have

power to require the attendance and examine and take testimony under oath of such persons as it may deem necessary and to require the production of books, accounts, papers and other evidence relative to the inquiry.

Sec. 42. Amendment of charter. Amendments to this charter may be adopted by any of the following methods:

1. By local law adopted in accordance with the provisions of this charter.

2. By vote of the electors of the city upon the petition of electors of the city, an amendment may be adopted

(a) in relation to the manner of voting for the elective officers of the city or any of them, or

(b) abolishing any elective office or offices or creating a new office or offices, including if so provided a transfer of powers to the newly created office or offices or a disposition of the powers of any office abolished, but no such amendment shall repeal or change any limitations contained in this charter on any power.

(c) such amendment may be adopted in the manner following:

(1) Not less than fifty thousand qualified electors of the city may file in the office of the city clerk a petition for the submission to the electors of the city at the next general election therein held not less than sixty days after filing of such petition of such a proposed amendment or amendments to the charter to be set forth in full in the petition. The petition may be made upon separate sheets and the signatures of each shall be



authenticated in the manner provided by the Election Law for the authentication of designating petitions. The several sheets so signed and authenticated when fastened together and offered for filing shall be deemed to constitute one petition. A signature made earlier than one hundred twenty days before the filing of the petition shall not be counted. If within ten days after the filing of such petition a written objection thereto be filed with the office of the city clerk, the Supreme Court or any justice thereof of the first, second or eleventh judicial district shall determine any question arising thereunder and make such order as justice may require. Such proceedings shall be heard and determined in the manner prescribed by the Election Law in relation to judicial proceedings thereunder. .-

(2) If such proposed amendment or amendments receive the affirmative vote of the majority of the qualified electors of the city voting thereon, it or they shall take effect as prescribed therein.

3. In such other manner as may be provided by law.

Sec. 43. Submission of local laws or amendments. A proposition for the submission of a local law or an amendment to this charter for the approval of the electors pursuant to this charter shall contain the title of such local law or a brief statement of the subject of such amendment. The city clerk with the advice of the corporation counsel shall prepare an abstract of such local law or amendment concisely stating the title or subject and the purpose and effect thereof in clear language, and forthwith shall transmit

such proposition and such abstract to the election officers charged with the duty of publishing the notice of and furnishing the supplies for such election. A sufficient number of copies of such abstract shall be printed, in such manner that the abstract shall appear with the question to appear on the ballot in bold type and separately from the text of the proposition, and shall be delivered with the other election supplies and distributed to the electors at the time of the registration of voters and at the election. If there be more than one such proposition to be voted upon at such election, each such proposition shall be separately, consecutively and consistently numbered on the ballot and on the abstract. In case of a conflict between two local laws or two amendments adopted at the same election, the one receiving the largest affirmative vote shall control.

Sec. 44. Council review of city agencies. The council, through its standing committees and as an exercise of its legislative authority, shall review on a regular and continuous basis the service goals and performance and management efficiency of the agencies of the city.

Sec. 45. Legislative professional staff. Within appropriations for such purpose, the council shall establish a structure within the City Council and retain professional staff to review and analyze proposed budgets and departmental estimates, requests for new taxes or changes in taxes, budget modifications, capital borrowings and mayoral management reports. Such staff shall assist the committees of the council and Council Members in their

analysis of proposed legislation and in review of the performance and management of city agencies.

Sec. 46. Advice and consent. Appointment by the mayor of the members of the art commission, board of health (other than the chairman), board of standards and appeals, city planning commission (other than the chairman), civil service commission, landmarks preservation commission, tax commission, taxi and limousine commission and the public members of the environmental control board shall be made with the advice and consent of the council after a public hearing. Within thirty days after the first stated meeting of the council after receipt of a nomination, the council shall hold a hearing and act upon such nomination and in the event it does not act within such period, the nomination shall be deemed to be confirmed.

CHAPTER 2-A  
DISTRICTING COMMISSION

Sec. 50. Districting Commission; composition; appointment; terms; vacancies; compensation.

a. There shall be a districting commission consisting of nine members appointed by the mayor as provided in this section. The two political parties receiving the largest number of votes in the most recent mayoral election shall each have its city council delegation submit a list of ten nominations to the mayor. If such a party does not have any members sitting on the city council, the chairpersons of its county committees shall each submit two nominations to the mayor, in order to provide a list of ten nominations from that party. The mayor shall appoint two members from each of the two lists. The mayor shall appoint five additional members, but of these additional members no more than two may be enrolled in the same political party. The mayor shall designate one of the nine members to chair the commission.

b. The commission shall have among its members at least one resident of each borough.

c. The mayor shall appoint the commission no later than one year and five months before the first general election of the city council after each federal decennial census. The commission's term shall end upon adoption of a districting plan, as set forth in section fifty-one.

d. In the event of a vacancy by death, resignation or



otherwise, the mayor shall appoint a new member enrolled in the same political party from which his or her predecessor was selected, to serve the balance of the term remaining.

e. No member of the districting commission shall be removed from office by the mayor except for cause and upon notice and hearing.

f. The members of the commission shall serve without compensation except that each member shall be allowed actual and necessary expenses to be audited in the same manner as other city charges.

g. The commission may hire or contract for necessary staff assistance and may require agencies of city government to provide technical assistance. The commission shall have a budget as provided by the mayor.

Sec. 51. Powers and duties of the Commission; hearings; submissions and approval of plan.

a. Following each decennial census, the commission shall consult the city council and shall prepare a plan for dividing the city into districts for the election of council members. In preparing the plan, the commission shall be guided by the criteria set forth in section fifty-two.

b. The commission shall hold one or more public hearings not less than one month before it submits the plan to the city council. The commission shall make its plan available to the public for inspection and comment not less than one month before its first public hearing.

c. The commission shall submit its plan to the city council not less than one year before the first general election of the city council after each decennial census.

d. The plan shall be deemed adopted by the city council unless disapproved within three weeks by the vote of the majority of all the members of the city council. If the city council fails to adopt the plan, it shall return the plan to the commission with its objections, and with the objections of the individual members of the council.

e. Upon the rejection of its plan, the commission shall prepare a revised plan and shall submit such revised plan to the city council no later than nine months before the first general election of the city council after each decennial census. Such revised plan shall be deemed adopted by the city council unless disapproved within two weeks by the vote of two thirds of all the members of the city council and unless, by a vote of two thirds of all of its members, the city council votes to file a petition in the Supreme Court, New York County, for a determination that the plan fails to meet the requirements of the Charter. The city council shall file its petition no later than ten days after its disapproval of the plan. Upon a final determination, including a final determination upon appeal, if any, that the plan meets the requirements of the Charter, the plan shall be deemed adopted by the city council and the commission shall deliver the plan to the city clerk.

f. The mayor shall not approve or veto the districting plan.

g. If in any year population figures are not available at least one year and five months before the first general election following the decennial census, the city council may by local law shorten the time periods providing for districting commission action in subsections (b), (c), (d), and (e) of this section.

Sec. 52. District plan; criteria. In the preparation of its plan for dividing the city into districts for the election of council members the commission shall apply the following criteria. To the extent practicable, the criteria shall be applied and given priority in the order in which they are listed.

a. The difference in population between the least populous and the most populous districts shall not exceed ten percentum (10%) of the average population for all districts, according to figures available from the most recent decennial census.

b. Each district shall be contiguous, and whenever a part of a district is separated from the rest of the district by a body of water, there shall be a connection by a bridge, a tunnel, a tramway or by regular ferry service.

c. Each district shall be compact. To the extent practicable, each district shall be no more than twice as long as it is wide.

d. To the extent practicable, a district shall not cross borough or county boundaries.

e. To the extent practicable, district lines shall keep intact neighborhoods and communities with established ties of common interest and association, whether historical, racial, economic, ethnic, or religious.

CHAPTER 3  
BOARD OF ESTIMATE

Sec. 61. Membership. The mayor, the comptroller, the president of the council, and the presidents of the boroughs shall constitute the board of estimate.

Sec. 62. Voting in the board. a. As members of the board of estimate, the mayor, the comptroller and the president of the council shall each be entitled to cast two votes, and the president of each borough shall be entitled to cast one vote.

b. Except as otherwise provided in this charter or by law, the board shall act by resolution adopted by a majority of the whole number of votes authorized to be cast by all the members of the board.

c. No resolution or amendment of any resolution shall be passed at the same meeting of the board at which it is originally presented unless by a three-fourths vote or shall be finally passed except at a meeting open to the public. Prior to a final vote by the board on any resolution or amendment of any resolution members of the general public shall be afforded the opportunity to be heard on such resolution or amendment.

d. A quorum of the board shall consist of a sufficient number of members thereof to cast six votes, including at least two of the members authorized to cast two votes each.

Sec. 63. Meetings. The first meeting of the board in every year shall be called by the mayor upon due notice. The board



shall meet at least once every other week except that it shall meet at least once a month during the months of July and August. Additional meetings shall be called as the board shall direct. The mayor, or in his absence the president of the council, shall preside at all meetings.

Sec. 64. Journal; record. a. The secretary of the board shall keep a journal of the meetings of the board, which shall be a public record and which shall contain a record of ayes and noes on all votes taken on any resolution or other action of the board, the text of any resolution as passed by the board, a record of any other action taken by the board in such form as may be required by the board and such other matters as may be required by the board.

b. A full stenographic record of all public meetings of the board shall be filed in the office of the secretary and shall be a public record, and a transcript thereof or of any part thereof shall be promptly furnished to any citizen or taxpayer of the city on his demand made within ninety days of the meeting on payment of reasonable fees fixed by law or by resolution of the board.

Sec. 65. Rules. The board may adopt rules for the conduct of its proceedings not inconsistent with the provisions of law, and such rules shall not be suspended at any meeting except by affirmative vote of two-thirds of the votes which all members present are entitled to cast. By unanimous vote, it may delegate to any member or committee the power to act or hold hearings on any matter within its jurisdiction other than matters included in chapters six, eight, nine and fourteen; but such delegation shall

not apply to any particular matter specified by any member in a notice filed with the secretary.

Sec. 66. Secretary. The secretary of the board shall be appointed and may be removed at pleasure by the board.

Sec. 67. Responsibilities of the board. The board shall exercise the powers and perform the duties imposed upon it by this charter, and shall:

1. Grant leases of city property and concessions for the use of city property and enter into leases of property to the city for city use.

2. Make recommendations to the mayor or the council in regard to matters of city policy whenever requested or on its own initiative.

3. Hold public hearings on any such matter of city policy or other matters within the scope of its responsibilities whenever requested by the mayor or required to do so by this charter or other provision of law or whenever in its judgment the public interest will be benefited thereby.

4. Have final authority respecting the use, development and improvement of city land.

5. Have authority to approve standards, scopes and final designs of capital projects.

6. Have power to supersede a community board or withdraw from a community board delegated powers of such community board for violation of law, malfeasance or misfeasance by three-quarters vote after notice to members of the community board and a public

hearing.

7. Hold a hearing on tax abatement applications relating to the development of city land where the granting of such applications involves the exercise of administrative discretion by any city agency.

Sec. 68. Bureaus under the board. a. There shall be the following bureaus under the board:

1. The bureau of the secretary, the head of which shall be the secretary of the board of estimate.

2. The bureau of franchises, the head of which shall be the director of franchises.

b. The head of each bureau shall be appointed by and shall be removable at the pleasure of the board. The head of each bureau and the secretary shall perform such duties as may be conferred upon him by the board or by law and shall have the powers of the head of a department in respect to the organization of his bureau and the officers and employees thereof.

CHAPTER 4  
BOROUGH PRESIDENTS

Sec. 81. Qualifications; election; term; salary; removal; vacancy. a. There shall be a president of each borough, who shall be a resident thereof at the time of [his] election and remain a resident thereof throughout [his] the term of office.

b. [He] The borough president shall be elected by the electors of the borough at the same time and for the same term as in this charter prescribed for the mayor.

c. The salary of the borough president shall be ninety-five thousand dollars a year.

d. A president of a borough may be removed or suspended in the same manner as provided in this charter with respect to the mayor.

e. Any vacancy in the office of a borough president [caused by removal from the borough or otherwise,] shall be filled by [an] popular election [to such vacancy by majority vote of all the council members then in office representing such borough, and in case of any such vacancy it shall be the duty of the mayor forthwith to call such council members into session for such an election and to preside thereat, but he shall not vote in such election except in the case of a tie vote] in the manner set forth in this subdivision. Until an interim or permanent successor is first elected, the deputy borough president or the executive assistant, in the order of priority specified by the borough



president pursuant to subdivision one of section eighty-two, shall act as borough president.

1. Within three days of the occurrence of a vacancy in a borough presidency, the mayor shall proclaim the date for the election or elections required by this subdivision, provide notice of such proclamation to the city clerk and the board of elections and publish notice thereof in the City Record. After the proclamation of the date for an election to be held pursuant to paragraphs four or five of this subdivision, the city clerk shall publish notice thereof not less than twice in each week preceding the date of such election in newspapers distributed within the city, and the board of elections shall mail notice of such election to all registered voters within the appropriate borough.

2. If a vacancy occurs during the first three years of the term, a general election to fill the vacancy for the remainder of the unexpired term shall be held in the year in which the vacancy occurs, unless the vacancy occurs after the last day on which an occurring vacancy may be filled at the general election in that same year with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law. If such a vacancy occurs in any year after such last day, it shall be filled for the remainder of the unexpired term at the general election in the following year provided, however, that no general election to fill a vacancy shall be held in the last year of the term, except as provided in paragraph nine of this subdivision. Party nominations of candidates for a

general election to fill a vacancy for the remainder of the unexpired term shall be made at a primary election, except as provided in paragraph five of this subdivision.

3. If a special or general election to fill the vacancy on an interim basis has not been previously held pursuant to paragraphs four, six, seven and eight of this subdivision, the person elected to fill the vacancy for the remainder of the unexpired term at a general election shall take office immediately upon qualification and shall serve until the term expires. If a special or general election to fill the vacancy on an interim basis has been previously held, the person elected to fill the vacancy for the remainder of the unexpired term at a general election shall take office on January first, of the year following such general election and shall serve until the term expires.

4. If a vacancy occurs during the first three years of the term and on or before the last day in the third year of the term on which an occurring vacancy may be filled for the remainder of the unexpired term at a general election with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law, a special or general election to fill the vacancy on an interim basis shall be held, unless the vacancy occurs less than ninety days before the next primary election at which party nominations for a general election to fill the vacancy may be made and on or before the last day on which an occurring vacancy may be filled for the remainder of the unexpired term at the general election in the same year in

which the vacancy occurs with party nominations of candidates for such election being made at a primary election, as provided on section 6-116 of the election law.

5. If a vacancy occurs after the last day in the third year of the term on which an occurring vacancy may be filled for the remainder of the unexpired term at a general election in each year with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law, but not less than ninety days before the date of the primary election in the fourth year of such term, a special or general election to fill such vacancy for the remainder of the unexpired term shall be held.

6. Elections held pursuant to paragraph four or five of this subdivision shall be scheduled in the following manner: A special election to fill the vacancy shall be held on the first Tuesday at least forty-five days after the occurrence of the vacancy, provided that the mayor, in the proclamation required by paragraph one of this subdivision, may schedule such election for another day no more than ten days after such Tuesday and not less than forty days after such proclamation if the mayor determines that such rescheduling is necessary to facilitate maximum voter participation; except that

(a) if the vacancy occurs before September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is less than ninety days before a regularly scheduled general election or between a primary and a

general election, the vacancy shall be filled at such general election; and

(b) if the vacancy occurs before September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is after a regularly scheduled general election, the vacancy shall be filled at such general election; and

(c) if the vacancy occurs on or after September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is after, but less than thirty days after, a regularly scheduled general election, the vacancy shall be filled at a special election to be held on the first Tuesday in December in such year. . -

7. All nominations for elections to fill vacancies held pursuant to paragraphs four and five of this subdivision shall be by independent nominating petition. A signature on an independent nominating petition made earlier than the date of the proclamation required by paragraph one of this subdivision shall not be counted.

8. A person elected to fill a vacancy in a borough presidency at an election held pursuant to paragraph four of this subdivision shall take office immediately upon qualification and serve until December thirty-first of the year in which the vacancy is filled for the remainder of the unexpired term pursuant to paragraph two of this subdivision. A person elected to fill a vacancy in a borough presidency at an election held pursuant to paragraph five



of this subdivision shall take office immediately upon qualification and serve until the term expires.

9. If a vacancy occurs less than ninety days before the date of the primary election in the last year of the term, the person elected at the general election in such year for the next succeeding term shall take office immediately upon qualification and fill the vacancy for the remainder of the unexpired term.

Sec. 82. Powers and duties. The president of a borough shall: 1. Appoint and may at pleasure remove a deputy and an executive assistant, either of whom may discharge such of the powers of the president of the borough as the president by instrument in writing filed in [his] the borough president's office and with the board of estimate may delegate to either of them, and either, in the order of priority specified by the president in such instrument, shall, when such office becomes vacant, or when such president is prevented from attending to the duties of [his] the office, by reason of sickness, absence from the city or suspension from office, temporarily act as such president.

2. Have power to appoint a secretary and such assistants, clerks and subordinates as [he] such borough president may deem necessary, within the appropriation therefor. The said secretary, assistants, clerks and subordinates shall hold office at the pleasure of the president, subject to the provisions of the civil service law.

3. Continue to maintain a topographical bureau for such borough

and appoint the director of the bureau who shall also serve as construction coordinator and consulting engineer for the borough and shall have qualifications as a licensed professional engineer. In addition to [his] other duties, [he] the director of the bureau shall monitor capital projects in the borough and shall be available to serve as an expediter on construction projects in the borough and provide technical assistance with respect to construction projects.

4. Have power to recommend capital projects.

5. Have power to hold public hearings on matters of public interest.

6. Make recommendations to the mayor and to other city officials in the interests of the people of his borough.

7. Appoint such professional staff within appropriations therefor to assist in the review and analysis of proposed budgets, departmental estimates, budget modifications and other fiscal matters under the jurisdiction of the president of the borough.

8. Perform such other functions and duties and exercise such other powers as may be assigned to him by law.

Sec. 83. Organization of office. Any borough president to the extent to which the organization of such borough president's office is not prescribed by law, may organize such borough president's office into such divisions, bureaus or offices and make such assignments of powers and duties among them, and from time to time change such organization or assignments as the borough president may consider advisable.

Sec. 85. Borough board. a. There shall be in each borough a board to be known as the borough board which shall consist of the borough president and the district council members from such borough, and the chairperson of each community board in the borough. The borough president shall be the chairperson of such board, which shall hold public hearings at stated intervals in the borough and report to the board of estimate, the council, the mayor and the city planning commission on borough programs and proposed borough capital projects. A member from a community board shall vote only on issues that directly affect the community district represented by such member. The borough board shall employ technical and clerical assistance within appropriations for such purposes, and the borough president shall provide necessary additional staff assistance.

b. Each borough board shall:

(1) Cooperate with community boards and city agencies with respect to matters relating to the welfare of the borough and its residents;

(2) In its discretion hold or conduct public or private hearings;

(3) Meet at least once a month but no formal action of the board shall be taken except at a meeting open to the public;

(4) Assist agencies that deliver services within the borough in the preparation of service statements for the borough and review such statements;

(5) Prepare comprehensive and special purpose plans for the

physical growth, improvement and development of the borough;

(6) Review and make recommendations with respect to applications and proposals of public agencies and private entities for the use, development, or improvement of land located in more than one district;

(7) Mediate disputes and conflicts among two or more community districts in the borough;

(8) Submit a comprehensive statement of the expense and capital budget priorities and needs of the borough;

(9) Evaluate the progress of capital developments within the borough and the quality and quantity of services provided by agencies within the borough; and

(10) Otherwise consider the needs of the borough.

c. A majority of the members of any borough board entitled to vote on a matter before such board shall constitute a quorum of such board for action on such board.

d. Whenever any act is authorized to be done or any determination or decision made by any borough board, the act, determination or decision of the majority of the members present entitled to vote during the presence of a quorum, shall be held to be the act, determination or decision of such board.

e. Any borough board may adopt rules permitting a member to designate a representative to exercise all the power of such member as a member of the borough board. Such a representative shall be considered a member of the board for the purpose of determining a quorum of the borough board.



Sec. 86. Opening and closing streets. Except in the case of an emergency, no person, agency, business, association, or corporation shall remove the pavement, disturb the surface or otherwise open or close a street, road or highway until a written notice is filed at least ten days in advance of the intended action with the construction coordinator and consulting engineer for the borough in the office of the borough president and the office of district manager for the community district in which the street, road or highway is located. In the event of an emergency, such notice may be made in person or by telephone before the action is instituted and in writing immediately after the action is instituted. If this is not feasible, notice shall be made in person or by telephone and in writing immediately after the action is instituted.

CHAPTER 5  
COMPTROLLER

Sec. 91. Election; terms; salary. The comptroller shall be elected by the electors of the city at the same time and for the same term as in this charter prescribed for the mayor. The salary of the comptroller shall be one hundred five thousand dollars a year.

Sec. 92. Removal from office. The comptroller may be removed or suspended in the same manner as provided in this charter with respect to the mayor.

Sec. 93. Powers and duties. a. The comptroller from time to time in his discretion may, and whenever required by law or requested by the mayor, the board of estimate or the council, shall advise the mayor, the board of estimate and the council on the financial condition of the city or any phase thereof and make such recommendations, comments and criticisms in regard to the operations, fiscal policies and financial transactions of the city as he may deem advisable in the public interest.

b. He shall have power to investigate all matters relating to or affecting the finances of the city, including without limitation the performance of contracts and the receipt and expenditure of city funds, and for such purpose he shall have power to require the attendance and examine and take the testimony under oath of such persons as he may deem necessary.

c. The comptroller shall (1) audit financial transactions of

the city, including vouchers, warrants, and payrolls; (2) audit all official accounts and the accrual and collection annually of all revenues and receipts; and (3) audit the expenditure of city funds by any public or private agency that receives such funds from the city.

d. The comptroller shall audit the operations and programs of city agencies to determine whether funds are being expended or utilized efficiently and economically and whether the desired goals, results or benefits of agency programs are being achieved. He shall investigate the processing of vouchers by city agencies and undertake studies, including cost benefit analyses, of purchases of equipment, goods and services by agencies of government that use city funds for such purposes and report his findings and recommendations to the mayor, the board of estimate, the council and the public.

e. The comptroller shall have power and it shall be his duty to audit all vouchers before payment for availability of funds and prepare warrants. No warrant shall be prepared by the comptroller unless sufficient appropriations are available to cover the payments involved. No agency shall expend or commit any funds otherwise than for the program and purposes for which the funds have been appropriated and the comptroller shall conduct audits and take such other action as is required to assure compliance with this provision.

f. Except as provided in subsection e, not later than July first, nineteen hundred seventy-seven the agencies shall prepare

and audit vouchers before payment, prepare and audit payrolls, receive and inspect goods and forward bills to the comptroller for payment. The comptroller shall prescribe methods for preparing and auditing vouchers before payment, preparing payrolls, and recording, reporting and accounting in the several agencies and shall conduct reviews to assure compliance. The comptroller may suspend or withdraw the authority delegated to an agency pursuant to this subdivision (1) upon a finding of abuse of such authority or on a determination that the agency lacks adequate internal controls to exercise such authority properly and (2) upon the approval of the board of estimate after the agency has had an opportunity to be heard on this matter.

g. The comptroller shall have the power to settle and adjust all claims in favor of or against the city in such manner as shall be prescribed by law and for that purpose may administer oaths, except that, with regard to excise and non-property taxes, such power shall be vested in the commissioner of finance. The comptroller shall not revise the terms of a contract or agreement with the city after its execution. The city may include in construction contracts or agreements for capital projects provisions that authorize the comptroller to submit disputes arising under any such contract or agreement to impartial arbitration.

h. He shall administer and manage the several sinking funds of the city and all other trust funds held by the city, and provide for the receipt and safekeeping of all moneys in such funds,



except as provided in paragraph b of subdivision three of section fifteen hundred four of this charter, and in such administration he shall be deemed to be acting in a fiduciary capacity.

i. He shall keep the accounts of the city and shall at least once in each month render to each agency a summary statement of so much thereof as relates to such agency.

j. Within four months after the close of each fiscal year, the comptroller shall publish a statement for such year, including a full and detailed statement of the receipts and expenditures of the city and the cash balance or surplus at the end of the fiscal year, including the average daily collected deposits in bank accounts of the city, the investment performance of city pension and other investment funds, an itemized statement of all taxes due and uncollected at the close of the fiscal year, the reserve for estimated uncollectible taxes, and the uncollected parking violation fines receivable, an itemized statement of the condition of the sinking funds, the street and park openings fund and the street improvement fund, so long as such funds shall be continued, and any other assessable improvement funds, and of the tax appropriation and general fund stabilization reserve fund as at the close of the fiscal year, the different sources of city revenue, including itemization of receivables due from state or federal sources by program and fiscal year, and the amount received from each, the several appropriations made for the fiscal year, the objects for which they were made and the amount of moneys expended under each, the money borrowed on the credit of

the city, the amount of each loan, the authority under which it was made and the terms on which it was obtained, and such other information in regard to such fiscal year as may be determined by the comptroller or by law.

k. On January first, nineteen hundred seventy-six, the comptroller shall begin to establish for his office and in city agencies a system of uniform accounting and reporting based on the principles set forth in the state comptroller's uniform system of accounts for municipalities as modified by the state comptroller in consultation with the city comptroller, for application to the city. Such system of uniform accounting and reporting shall be fully implemented not later than January first, nineteen hundred eighty-one.

(1) Notwithstanding any provision to the contrary, such accounting principles shall require that:

a. all expenses, excluding debt service and pension fund contributions, be accounted for on an accrual basis; and

b. revenues be accounted for on an accrual basis only if the liability of the payor of such revenue can be measured precisely and can be shown to have been created during a specific fiscal year and that a cash basis of accounting is to be used for those revenues for which an accrual basis is not feasible.

(2) Such system of uniform accounts shall provide:

a. control accounts in the office of the comptroller that are consistent with budgeted units of appropriation and that are adequate to record and control spending by the agencies and to

prevent agencies from exceeding appropriations;

b. detailed accounts in the agencies for the purposes of cost accounting, rate of expenditure information and other management information data; and

c. geographic accounts for the reporting of expenditures for local service districts of agencies within community districts and boroughs.

(3) The comptroller shall review agency accounts and systems to assure compliance with this chapter and with the methods, standards and procedures prescribed by him for the agencies.

1. He shall prescribe systems of accounting for city agencies whose revenues arising out of the use of the facilities and services supplied by such agencies constitute fifty per centum or more of the appropriations provided for the operation of such agencies, which systems of accounting shall conform so far as practicable to standard public utility accounting practices. The comptroller shall publish in the comptroller's annual report statistical data in regard to the financial operations of such city agencies.

m. Notwithstanding the provisions of any general, special or local law or this charter or any contract heretofore or hereafter made or awarded by the city of New York or by any agency, department or authority acting on its behalf, the comptroller may, at his discretion, turn over the physical custody and safekeeping of bonds, notes, obligations or other evidences of indebtedness which have been or will be deposited with him as collateral

security as required by law or contract to a custodian who may be (a) any bank or trust company incorporated in the state, or (b) any national bank located in the state, or (c) any private banker duly authorized by the superintendent of banks of this state to engage in business here. The comptroller may enter into a contract with such custodian under terms and conditions which the comptroller may require. Each depositor of collateral security shall bear his or its proportionate share of the cost of such custodial safekeeping which shall be paid to the city of New York.

n. No contract or agreement executed pursuant to this charter or other law shall be implemented until (1) a copy has been filed with the comptroller and (2) either the comptroller has registered it or thirty days have elapsed from the date of filing, whichever is sooner.

o. The comptroller, upon request, shall assist the board of estimate or the council in the conduct of any investigations or studies by either body of the fiscal or economic affairs of the city or of any agency. He shall provide reports to the board of estimate or the council upon request of either body and shall testify before either body or a committee of either body.

Sec. 94. Deputy comptrollers and other appointees. a. The comptroller shall appoint and at pleasure remove a first, and second deputy comptroller. He may appoint and at pleasure remove a third deputy comptroller in all matters relating to borrowings and the investment of funds. Except as provided in subdivision b of this section, each of the deputies and any officer or employee



appointed by the comptroller shall have such powers and duties as may be assigned to [him] such person by the comptroller by instrument in writing filed with the city clerk. Provided however that no more than five (5) such additionally appointed officers or employees shall serve simultaneously. The city clerk shall notify the city council of the filing or revocation of each such appointment.

b. Any deputy comptroller or any one of three officers or employees appointed by the comptroller may, by written authority filed with the board of estimate and with the city clerk, act in the place of the comptroller as a member of the board of estimate. Any deputy comptroller or any officer or employee appointed by the comptroller may act in place of the comptroller on any other board, body or committee of which the comptroller is a member whenever the comptroller shall so authorize in writing and such authorization is filed with such board, body or committee and with the city clerk.

c. Any vacancy in the office of comptroller shall be filled by popular election, in the manner set forth in this subdivision. In the event of a vacancy in the office of comptroller until an interim or permanent successor is first elected, or whenever by reason of sickness, absence from the city or suspension from office, the comptroller shall be prevented from attending to the duties of [his] the office, or while the comptroller is acting as mayor, the first deputy comptroller or in the case of his or her illness or absence the second deputy comptroller or in the case of

his or her illness or absence the third deputy comptroller shall act as comptroller.

1. Within three days of the occurrence of a vacancy in the office of the comptroller, the mayor shall proclaim the date for the election or elections required by this subdivision, provide notice of such proclamation to the city clerk and the board of elections and publish notice thereof in the City Record. After the proclamation of the date for an election to be held pursuant to paragraphs four or five of this subdivision, the city clerk shall publish notice thereof not less than twice in each week preceding the date of such election in newspapers distributed within the city, and the board of elections shall mail notice of such election to all registered voters within the city.

2. If a vacancy occurs during the first three years of the term, a general election to fill the vacancy for the remainder of the unexpired term shall be held in the year in which the vacancy occurs, unless the vacancy occurs after the last day on which an occurring vacancy may be filled at the general election in that same year with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law. If such a vacancy occurs in any year after such last day, it shall be filled for the remainder of the unexpired term at the general election in the following year provided, however, that no general election to fill a vacancy shall be held in the last year of the term, except as provided in paragraph nine of this subdivision. Party nominations of candidates for a

general election to fill a vacancy for the remainder of the unexpired term shall be made at a primary election, except as provided in paragraph five of this subdivision.

3. If a special or general election to fill the vacancy on an interim basis has not been previously held pursuant to paragraphs four, six, seven and eight of this subdivision, the person elected to fill the vacancy for the remainder of the unexpired term at a general election shall take office immediately upon qualification and shall serve until the term expires. If a special or general election to fill the vacancy on an interim basis has been previously held, the person elected to fill the vacancy for the remainder of the unexpired term at a general election shall take office on January first of the year following such general election and shall serve until the term expires.

4. If a vacancy occurs during the first three years of the term and on or before the last day in the third year of the term on which an occurring vacancy may be filled for the remainder of the unexpired term at a general election with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law, a special or general election to fill the vacancy on an interim basis shall be held, unless the vacancy occurs less than ninety days before the next primary election at which party nominations for a general election to fill the vacancy may be made and on or before the last day on which an occurring vacancy may be filled for the remainder of the unexpired term at the general election in the same year in

which the vacancy occurs with party nominations of candidates for such election being made at a primary election, as provided on section 6-116 of the election law.

5. If a vacancy occurs after the last day in the third year of the term on which an occurring vacancy may be filled for the remainder of the unexpired term at a general election in each year with party nominations of candidates for such election being made at a primary election, as provided in section 6-116 of the election law, but not less than ninety days before the date of the primary election in the fourth year of such term, a special or general election to fill such vacancy for the remainder of the unexpired term shall be held.

6. Elections held pursuant to paragraph four or five of this subdivision shall be scheduled in the following manner: A special election to fill the vacancy shall be held on the first Tuesday at least forty-five days after the occurrence of the vacancy, provided that the mayor, in the proclamation required by paragraph one of this subdivision, may schedule such election for another day no more than ten days after such Tuesday and not less than forty days after such proclamation if the mayor determines that such rescheduling is necessary to facilitate maximum voter participation; except that

(a) if the vacancy occurs before September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is less than ninety days before a regularly scheduled general election or between a primary and a



general election, the vacancy shall be filled at such general election; and

(b) if the vacancy occurs before September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is after a regularly scheduled general election, the vacancy shall be filled at such general election; and

(c) if the vacancy occurs on or after September twentieth in any year and the first Tuesday at least forty-five days after the occurrence of the vacancy is after, but less than thirty days after, a regularly scheduled general election, the vacancy shall be filled at a special election to be held on the first Tuesday in December in such year. . -

7. All nominations for elections to fill vacancies held pursuant to paragraphs four and five of this subdivision shall be by independent nominating petition. A signature on an independent nominating petition made earlier than the date of the proclamation required by paragraph one of this subdivision shall not be counted.

8. A person elected to fill a vacancy in the office of the comptroller at an election held pursuant to paragraph four of this subdivision shall take office immediately upon qualification and serve until December thirty-first of the year in which the vacancy is filled for the remainder of the unexpired term pursuant to paragraph two of this subdivision. A person elected to fill a vacancy in the office of the comptroller at an election held

pursuant to paragraph five of this subdivision shall take office immediately upon qualification and serve until the term expires.

9. If a vacancy occurs less than ninety days before the date of the primary election in the last year of the term, the person elected at the general election in such year for the next succeeding term shall take office immediately upon qualification and fill the vacancy for the remainder of the unexpired term.

Sec. 95. Annual audit. An annual audit shall be made of the consolidated operating accounts of the city and year-end receivables accounts of the city by a firm or firms of certified public accountants selected by the board of estimate, after submission of more than one proposal to perform the audit, unless such audit is performed, or shall be performed by the state comptroller. Copies of the annual audit shall be submitted to the mayor, the comptroller, the board of estimate, the council and the state comptroller and shall be published in the City Record. No firm of certified public accountants shall perform any such audit or a part of such audit for more than four consecutive years.

Sec. 95\*. Third deputy comptroller. The comptroller may appoint and at pleasure remove a third deputy comptroller who shall be a person qualified to advise and assist the comptroller in all matters related to borrowings and the investment of funds.

Sec. 96. Actuarial audit. The board of estimate biennially shall select an independent actuary to review and comment upon the financial soundness and probity of the actuarial assumptions employed by the city to calculate contributions to the city

pension funds. The report of the actuary shall be published in the City Record. No actuary may be selected more than twice consecutively.

CHAPTER 6  
EXPENSE BUDGET

Sec. 110. Fiscal year. The fiscal year of the city shall commence on the first day of July in each year and shall terminate at midnight on the ensuing thirtieth day of June.

Sec. 111. Office of management and budget. a. There shall be an office of management and budget in the executive office of the mayor, the head of which shall be director of management and budget who shall be appointed by the mayor.

b. It shall be the duty of the director to prepare each year an executive budget for the ensuing fiscal year and to perform all such duties in regard thereto as the mayor may direct. He shall have the power, personally or by his representatives, to survey each agency for the purpose of ascertaining its budgetary requirements. He may require any agency, or any officer or employee, to furnish data and information and to answer inquiries pertinent to such survey.

Sec. 112. Departmental estimates. a. On such date as the mayor may direct, the head of each agency shall submit to the director of management and budget an estimate of the requirements for expense of such agency for the ensuing fiscal year. Such estimates shall be known as departmental estimates and shall consist of proposed units of appropriation for personal services and proposed units of appropriation for other than personal services. Each agency head shall submit a statement of the impact



on the level of services provided. Each agency that delivers local services within community district shall consult with the respective community boards in the preparation of its estimates.

b. Each proposed unit of appropriation for personal service shall represent the amount requested for personal service for a particular program, purpose, activity or institution.

c. Each proposed unit of appropriation for other than personal service shall represent the total amount requested for other than personal service for a particular agency; provided, however, that the amount thereof allocable to each unit of appropriation for personal service in such agency shall be set forth for informational purposes at the end of each unit of appropriation for personal service.

d. Each requested unit of appropriation shall be supported by line items showing how the total amount of such unit is determined. Such departmental estimates shall be in such form and contain such further information as may be required by the mayor or by law. Such departmental estimates shall be public records and shall at all reasonable times be open to public inspection. For each city agency that has local service districts within community districts and boroughs, the departmental estimates where practicable shall contain a statement of proposed direct expenses in each such service district for each requested unit of appropriation, pursuant to the requirements and time periods specified in subdivision k of section ninety-three.

Sec. 112-a. Preliminary budget statements. a. Not later than

the sixteenth day of January, the mayor shall submit the preliminary budget statements for the ensuing fiscal year to the board of estimate, council and each community board and borough board. Such preliminary budget statements shall contain proposed expenditures and forecast revenues for the ensuing fiscal year, and shall indicate proposed units of appropriations for personal services and for other than personal services. Such preliminary budget statements shall consist of: (1) a financial plan covering estimates of expenditures and revenues for the four ensuing fiscal years, (2) departmental estimates of agency expenditures for the ensuing fiscal year pursuant to section one hundred twelve together with proposed sources of revenue for each unit of appropriation specified therein and (3) a plan to balance the expense and revenue budgets, by unit of appropriation where actions are allocated to specific agencies, showing the number of full-time personnel affected in each agency, the estimate impact on services that would result from such plan and the funding consequences of such plan.

b. Not later than the fifteenth day of February, each community board shall (1) hold a public hearing on the preliminary budget statements with respect to the service needs and priorities of the community district and (2) submit a statement of its budget priorities and recommendations to the mayor, board of estimate, council, director of management and budget, and the respective borough board.

c. Not later than the twenty-fifth day of February each

borough board shall submit a comprehensive statement on the budget priorities of the borough to the mayor, board of estimate, council, and director of management and budget.

Sec. 113. Statement by comptroller. a. Not later than the fifteenth day of February in each year, the comptroller shall submit to the mayor, to the board of estimate and to the council a certified statement which shall be published forthwith in the city record and which shall contain:

1. A schedule of appropriations required for debt service, including appropriations to the several sinking funds required by law.

2. An itemized statement of the condition of the street and park openings fund and of the street improvement fund, and any appropriation therefor required by law.

3. Such other information as may be required by law.

b. At such times as the mayor, the board of estimate or the council shall request, the comptroller shall submit to them a certified statement showing as of a specified date:

1. An itemized statement of all taxes due and uncollected.

2. Such other information as may be requested by the mayor, the board of estimate or the council.

Sec. 114. Statement of commissioner of finance. Not later than the fifteenth day of February in each year, the commissioner of finance shall submit to the mayor, to the board of estimate and to the council a tentative estimate of the assessed valuation of real property subject to taxation for the ensuing fiscal year, which

shall be published forthwith in the City Record.

Sec. 115. Preliminary hearings. Not later than the twenty-fifth day of March, the board of estimate and the council through its committees shall hold joint hearings on the preliminary budget statements, recommendations of community boards, recommendations of borough boards, and such other information as may be available to them, and submit any findings and recommendations to the mayor. The public and representatives of the director of management and budget may participate in the hearings. Officers of agencies, when requested by the board of estimate or the council, shall appear and be heard. Representatives of community boards and borough boards may appear and be heard.

Sec. 116. Submission of the budget. Not later than the twenty-sixth day of April the mayor simultaneously shall submit to the board of estimate and the council (1) a proposed budget for the ensuing fiscal year, and (2) a budget message, both of which shall be public records and shall be printed forthwith.

Sec. 117. Contents of the budget and budget message. a. There shall be included in the budget:

1. Units of appropriation, prepared according to section one hundred twelve, in such amounts and upon such terms and conditions as may be determined by the mayor. Units of appropriation for personal services shall include, for each agency, amounts requested for the specific number of deputy commissioners, pursuant to section 1101(a).



2. The amounts required by law to be appropriated to the several sinking funds as certified by the comptroller.

3. The amount required to pay the interest and principal of city obligations as certified by the comptroller.

4. The amounts required by law to be appropriated to the street and park openings fund and the street improvement fund as certified by the comptroller.

5. The amount as certified by the comptroller equal to the average of all expenditures during each of the five preceding fiscal years for the payment of the expense of the removal of snow and ice, exclusive of salaries and wages of regular employees of the city except for overtime work and for work on Sundays and holidays, and exclusive of the purchase of equipment.

6. The several amounts which are payable from sources other than the real estate tax levy, provided however that amounts appropriated pursuant to chapter nine of this charter which are allocable to a particular program, purpose, activity or institution, shall be included for informational purposes only.

7. Such other amounts as may be required by law.

8. The terms and conditions under which appropriations shall be administered.

9. Such amounts as shall be determined in the manner provided in this chapter to be necessary to pay the expenses of conducting the business of the city for the ensuing fiscal year and for other lawful public purposes.

10. There shall be appropriated in the expense budget a

reserve for unanticipated contingencies.

11. Proposed appropriations, by agency and project type and, within project type, by personal services and other-than-personal services, for the maintenance of all major portions of the capital plant, as such terms are defined in subdivision a of section eleven hundred ten-a.

b. The budget message, which shall not be deemed a part of the budget, shall include:

1. An explanation, in summary terms, of the major programs, emphases and objectives of the budget, the general fiscal and economic condition of the city, the tax and fiscal base of the city, and intergovernmental fiscal relations.

2. Itemized information and supporting schedules of positions, salaries and other-than-personal service expenses, anticipated for the ensuing fiscal year, accompanied by comparison with the amounts appropriated in the current expense budget as originally adopted and as modified through the first nine months of the fiscal year, and with the amounts actually expended in the previous year and through the first nine months of the current fiscal year.

3. Estimates of all revenue receipts and recommendations for any changes in the revenue and fiscal sources and operations of the city, including intergovernmental revenue and fiscal arrangements.

4. An itemized statement of the revenue receipts and accruals of the general fund and of all other revenue sources, including

state and federal aid and revenues for specified purposes, for each of the four preceding fiscal years, and for the first nine months of the current fiscal year, and the estimated receipts for the balance of the current fiscal year, and for the ensuing fiscal year. In preparing such information the mayor shall consult with the comptroller.

5. A listing of all revenues of a nonrecurring nature that are not expected to be available or used in subsequent fiscal years.

6. For each existing program, forecasts of expenses for the succeeding three fiscal years at existing levels of service; forecasts of revenue by source from existing sources of revenue for the succeeding three years; and for each new or expanded program, a three year forecast of annual recurring costs after such program is fully implemented.

7. For each existing program, a comparison of the expenses for the current year with the prior year's forecast for the current year.

8. For each agency that has local service districts within community districts and boroughs, a statement of proposed direct expenses in each service district for each unit of appropriation and a statement of the basis for the allocation of direct expenses to local service districts of each such agency.

9. An explanation of principal changes in performance goals and indicators from the date of submission of the preliminary management report to the submission of the proposed budgets.

10. An itemized statement, covering the city's entire capital

plant, except for those portions of the capital plant which have been committed to the care and control of the board of education or officers or employees thereof, by agency and project type and, within project type, by personal services and other-than-personal services, of the amounts appropriated for maintenance of such capital plant in the previous and current fiscal years as originally adopted and as modified through the first nine months of the current fiscal year, and of the amounts actually expended for such maintenance in the previous fiscal year and through the first nine months of the current fiscal year and the amounts estimated to be expended for such purpose during the balance of the current fiscal year; and, for each agency, an explanation of the substantive differences, if any, between the amounts actually expended for such maintenance in the previous fiscal year or projected to be expended for such purpose in the current fiscal year and the amounts originally appropriated for such purpose for such years.

11. A presentation of the maintenance activities proposed by the mayor to be completed during the ensuing fiscal year for all major portions of the capital plant, as such terms are defined in subdivision a of section eleven hundred ten-a, categorized by agency and project type; an explanation of the differences, if any, between such proposed activities and the activities scheduled to be undertaken during such fiscal year pursuant to subdivision c of such section; an explanation of the differences, if any, between the proposed appropriations for such activities and the



estimates of the amounts submitted, pursuant to subdivision f of such section, as necessary to maintain such portions of the captial plant; and a presentation and explanation of the differences, if any, between the maintenance activities for all major portions of the capital plant proposed by the mayor, in the budget message for the previous fiscal year, to be completed during such fiscal year and the activities actually completed during such fiscal year.

Sec. 118. Appropriations for supplies, materials and equipment. Appropriations for the purchase of supplies, materials and equipment or the provision of services, utilities, or facilities required by and to be purchased or provided for the account of the various agencies and institutions for which the department of general services is authorized by the provisions of this charter to make purchases or provide services, utilities, or facilities shall be made to the department of general services but shall be segregated under the name of the agency or institution for which they are intended and shall be considered and accounted for as appropriated for such agency or institution. Nothing herein contained shall prevent the designation of part of such appropriations as a general stores account or under other appropriate designation to enable the service department of general services to maintain a stock in anticipation of requirements or to provide services, utilities or facilities for joint use by more than one agency or institution.

Sec. 119. Budget hearings. Between the sixth day of May and

the twenty-fifth day of May in each year, the board of estimate and the council shall hold public hearings on the budget as presented by the mayor. The council may hold such hearing either as a body or by its finance committee or other committees. The hearings may be held jointly by consent of both bodies. Officers of agencies and representatives of community boards and borough boards shall have the right, and it shall be their duty when requested by the board of estimate or the council, to appear and be heard.

Sec. 120. The budget; approval. a. The board of estimate and the council may increase, decrease, add or omit any unit of appropriation in the budget as submitted by the mayor, or add, omit or change any terms or-conditions of it.

b. Except as otherwise provided by law, and subject to the veto of the mayor pursuant to section one hundred twenty-one, the board of estimate and the council, by separate concurrent vote of each body, shall adopt a single budget, and it shall be returned to the mayor not later than the fifth day of June. In the event of a disagreement between the two bodies, each shall appoint members to a conference committee to reconcile differences and to make recommendations to the respective bodies for concurrent vote of each body.

c. If a single budget has not been adopted by the fifth day of June pursuant to subdivision b of this section, the budget and tax rate adopted as modified for the current fiscal year shall be deemed to have been extended for the new fiscal year until such

time as a new budget is adopted.

d. The mayor shall not participate in any action or vote of the board of estimate on the budget.

e. The actions and votes of the board of estimate and the council shall be certified to the mayor by the secretary of the board of estimate and the president of the council, respectively.

Sec. 121. Veto of the mayor. a. The mayor, not later than the tenth day of June, may disapprove any increase or addition to the budget any unit of appropriation, or any change in any term or condition of the budget. The mayor shall return the budget by that date to the board of estimate and council, setting forth his objections in writing.

b. Either the board of estimate by a two-thirds vote of all the members of the board other than the mayor, or the council, by a two-thirds vote of all the council members, may override any disapproval by the mayor pursuant to subdivision a of this section, with the concurrence of the other body by a majority vote of all members other than the mayor in the case of the board of estimate. The board of estimate and the council shall act and the expense budget shall be adopted not later than the twentieth day of June. In the event the board of estimate and the council fail to act by that date, the expense budget as modified by the disapprovals by the mayor is adopted.

Sec. 122. Appropriation, certification and publication. Not later than the twenty-first day of June in each year, the budget as finally adopted in such year shall be certified by the mayor,

the comptroller and the city clerk as the budget for the ensuing fiscal year, and the several amounts therein specified as units of appropriation shall be and become appropriated to the several purposes therein named, whether payable from the tax levy or otherwise and subject to the terms and conditions of the budget. The budget shall thereupon be filed in the offices of the comptroller and the city clerk, shall be a public record and be published forthwith.

Sec. 123. Budget administration. a. Except as otherwise provided by law, no unit of appropriation shall be available for expenditure by any city agency until the head of the agency has filed with the mayor, the director of management and budget, the comptroller, and the personnel director a schedule fixing positions and salaries and setting forth other expenses within the units of appropriation established pursuant to the budget and subject to the provisions of this chapter, the civil service law, and other applicable law.

b. The mayor shall establish and may modify for each agency (1) quarterly spending allotments for each unit of appropriation and (2) aggregate position and salary limits for each unit of appropriation, which shall be published in the City Record. No agency shall expend any sum in excess of such quarterly spending allotments, or exceed aggregate position and salary limits. The mayor may set aside specified sums as necessary reserves which shall not be included in the quarterly spending allotments until released by the mayor. Each agency shall administer all monies



appropriated or available for programs and purposes of the agency in accordance with quarterly allotment plans proposed by the agency and approved or modified by the mayor. Each such plan shall set forth by units of appropriation for the quarter of the fiscal year during which it is to remain in effect: (1) rates of expenditures for personal services and other than personal services; (2) ceilings on the total number of personnel by job categories; and (3) the total amount of funds to be spent of committed by the agency during such quarter.

c. The mayor shall keep informed during the course of each fiscal year, of the progress of expenditures and the receipt of revenues, and it shall be the duty of all agencies, when requested by the mayor, to supply all information needed for this purpose.

d. The mayor may assume direct responsibility for the administration of the schedule required to be filed by the agency head pursuant to subsection a of this section when in his judgment the fiscal condition of the city so requires or when an agency (1) is expending funds in excess of the quarterly spending allotments; or (2) is otherwise not complying with spending allotments or aggregate position and salary limits; or (3) is not maintaining adequate accounts pursuant to requirements of this charter.

Sec. 124. Budget modification. a. Subject to the quarterly spending allotments and aggregate position and salary limits established pursuant to section one hundred twenty-three, and to other applicable provisions of this charter, of the civil service law and of other law, changes in schedules, within units of

appropriation, may be made by the head of each agency. Any such changes shall be published in the City Record and copies shall be forwarded to the mayor and the comptroller not less than ten days before the effective date thereof.

b. The mayor during any fiscal year may transfer part or all of any unit of appropriation to another unit of appropriation, except that when any such transfer (1) shall be from one agency to another or (2) shall result in any unit of appropriation having been increased or decreased by more than five per cent from the budget as adopted for such unit of appropriation, the mayor shall notify the board of estimate and the council of the proposed action. Within thirty days after the first stated meeting of each body following the receipt of such notice, either the board of estimate or the council may disapprove the proposed action. Written notice of any transfer pursuant to this subdivision shall be given to the comptroller and shall be published in the City Record as soon as possible after such transfer.

c. The provisions of this section shall not be deemed to authorize any transfer from appropriations required by law.

d. As used in this section, the term "unit of appropriation" shall mean and include (1) a unit of appropriation for personal service as defined in subdivision b of section one hundred twelve of the charter together with that portion of a unit of appropriation for other than personal service, as defined in subdivision c of such section one hundred twelve, which is allocated to such unit of appropriation for personal service; or

(2) a unit of appropriation for other than personal service as defined in subdivision c of such section one hundred twelve.

e. The council may during any fiscal year transfer part or all of any unit of appropriation within the council appropriation to any other council unit of appropriation for any of its programs or projects or for any other purpose, solely by adoption of a council resolution. Each such transfer shall be published in the City Record and written notice thereof shall be given to the mayor and to the comptroller not less than ten days before the effective date thereof.

f. The procedures and required approvals pursuant to sections one hundred twenty, one hundred twenty-one and one hundred twenty-two, without regard to the dates specified therein, shall be followed in the case of (1) any proposed amendment to the budget respecting the creation of new units of appropriation, or (2) the appropriation of new revenues from any source, or (3) the proposed use by the city of previously unappropriated funds received from any source. Any request by the mayor respecting an amendment to the budget that involves an increase in the budget shall be accompanied by a statement of the source of current revenues or other identifiable and currently available funds required for the payment of such additional amounts.

Sec. 126. All revenues of the city, of every administration, department, board, office and commission thereof, and of every borough, county and other division of government within the city, from whatsoever source except taxes on real estate, not required

by law to be paid into any other fund or account shall be paid into a fund to be termed the "general fund."

Sec. 129. Revenue estimation report. Not later than the thirtieth day of September, the comptroller shall certify to the mayor the actual revenues for the previous fiscal year. Not later than the fifteenth day of October, the mayor shall issue a report comparing actual revenues to estimated revenues in the budget as adopted for such fiscal year, accompanied by a detailed listing and an explanation of any variances between actual revenues and estimated revenues. This report shall be published in the City Record.

Sec. 130. Expenditure reports. Any public or private agency, authority, corporation, board or commission which receives city funds and is not otherwise subject to the requirements of section one hundred twenty-three of this chapter shall submit quarterly reports of the expenditure of such funds to the mayor in such form and detail as the mayor may prescribe.

Sec. 131. Self-dealing among members of the governing boards of charitable institutions. a. Any charitable institution which receives any payment from the New York city charitable institutions budget shall pass and implement by-laws which will:

1. Require disclosure to the agency responsible for the administration of charitable institutions budget and approval of the material terms of any contract or transaction, direct or indirect, between institution and any member of its governing board, any partnership of which he is a member or any corporation



in which he holds ten per cent or more of the outstanding common stock.

2. Preclude any member of the governing board of any institution from sharing, participating or benefiting, directly or indirectly, in the proceeds from any contract or transaction entered into between the institution and any third party unless such participation or benefit has been approved in advance by the agency and the governing board of the institution has approved the transactions by a two-thirds majority excluding the vote of member to be benefited.

3. Require each member of its governing board to submit to the agency each year a disclosure statement including such member's name, home address, principal occupation and business interests from which such member and such member's spouse received income equal to or greater than ten per cent of their aggregate gross income during the previous year.

b. At the discretion of the agency, any payment or any portion of any payment may be withheld from any institution which has failed to pass and implement such by-laws.

## CHAPTER 7

TAX [COMMISSION] APPEALS

Sec. 153. Tax commission. a. There shall be a tax commission to consist of the president and six commissioners who shall be appointed by the mayor, for a term of six years except the term of two commissioners first appointed pursuant to this section shall be two years, the term of the president and two additional commissioners shall be four years and the term of the remaining two commissioners shall be six years. Each commissioner shall have at least three years business experience in the field of real estate or real estate law. At least one resident of each borough shall be included among the commissioners.

b. The tax commission shall be charged with the duty of reviewing and correcting all assessments of real property made pursuant to the provisions of section fifteen hundred six.

Sec. 154. Administrative powers of commissioners. Any commissioner shall exercise such other powers and duties as the president may from time to time assign to him.

Sec. 156. Right of entry. The president or any commissioner may enter upon real property and into buildings and structures at all reasonable times to ascertain the character of the property. Refusal by the owner or his agent to permit such entry shall be triable by a judge of the criminal court and punishable by not more than thirty days' imprisonment, or by a fine of not more than fifty dollars, or both.

Sec. 163. Application for Correction of assessment for taxation. a. When used in this chapter:

1. "Class designation" shall mean the determination, pursuant to section eighteen hundred two of the real property tax law, of whether real property is included in class one, two, three or four.

2. "Excessive assessment" or an assessment which is excessive shall mean and include:

(a) an entry on an assessment roll of the assessed valuation of real property which exceeds the full value of real property; or

(b) an entry on an assessment roll of the taxable assessed valuation of real property which is excessive because the real property failed to receive all or a portion of a partial exemption to which the property or owner thereof is entitled pursuant to the law authorizing the partial exemption; or

(c) an entry on an assessment roll of an assessed valuation for real property which is excessive because of a failure to comply with the limitations on increases in assessed value set forth in section eighteen hundred five of the real property tax law.

3. "Misclassification" or real property which is misclassified shall mean and include:

(a) an entry on an assessment roll of an incorrect class designation; or

(b) an entry on an assessment roll of a class designation which results in an incorrect allocation of a parcel's assessed valuation between two or more classes.

4. "Unequal assessment" or an assessment which is unequal shall mean and include an entry on an assessment roll of the assessed valuation of real property which is made at a higher proportionate valuation than the assessed valuation of other real property in the same class on the same roll by the same officer.

5. "Unlawful assessment" or an assessment which is unlawful shall mean and include:

(a) an entry on the taxable portion of an assessment roll of the assessed value of real property which, except for the provisions of section four hundred ninety of the Real Property Tax Law, is wholly exempt from taxation; or

(b) an entry on an assessment roll of the assessed value of real property which is entirely outside the boundaries of the city of New York; or

(c) an entry on an assessment roll of the assessed value of real property which cannot be identified from the assessment roll description or tax map land parcel number on the assessment roll; or

(d) an entry of the assessed value of real property on an assessment roll which has been made by a person or body without authority to make such entry.

b. During the time that the books of annual records of the assessed valuation of real estate are open for public inspection, any person or corporation claiming to be aggrieved by the assessed valuation of real estate may apply for correction of such assessment. Such application shall be duly verified by a person



having personal knowledge of the facts stated therein, provided that if the application is signed by someone other than the person or an officer of the corporation claiming to be aggrieved, the application must be accompanied by a duly executed power of attorney as prescribed by the rules and regulations of the tax commission.

c. The grounds for review of an assessment shall be that the assessment complained of is excessive, unequal, or unlawful, or that the real property is misclassified.

d. The application with respect to an assessment shall be on a form prescribed by the tax commission and shall contain a statement specifying the respect in which the assessment is excessive, unequal, or unlawful, or the respect in which the real property is misclassified, and the reduction in assessed valuation or taxable assessed valuation or change in class designation or allocation of assessed valuation sought.

e. Except in the case of a multiple or other dwelling which is occupied or is to be occupied exclusively by fewer than seven families, all income received or accrued and all expenses paid or incurred in the operation of the property, to be reported as follows:

(a) if the applicant's books and records reflecting the operation of the property are maintained on a calendar year basis, and the applicant operated the property or has knowledge of the income and expenses of said operation for a period of operation of at least two calendar years preceding the first day of January of

the year of the application, the income and expense figures for the second calendar year preceding the date of the application shall be filed with the application;

(b) if the applicant's books and records reflecting the operation of the property are maintained on a calendar year basis, and the applicant has operated the property or has knowledge of the income and expenses of such operation for a period of less than two calendar years but at least six months of the calendar year immediately preceding the date of the application, the income and expense figures, related to the time during which the applicant operated the property or had knowledge of the income and expenses of the operation in the calendar year immediately preceding the date of the application, shall be filed either with the application or prior to the twenty-fifth day of March in the year of the application;

(c) if the applicant's books and records reflecting the operation of the property are maintained on a fiscal year basis for federal income tax purposes and such fiscal year ended at least six months prior to the date of the application, and the applicant has operated the property for at least one year and six months prior to the date of the application or has knowledge of the income and expenses of the property for a period of at least one year and six months prior to the date of the application, the income and expense figures of the operation of the property for the last complete fiscal year preceding the date of the application shall be filed with the application;

(d) if the books and records reflecting the operation of the property are maintained on a fiscal year basis for federal income tax purposes and either such fiscal year ended less than six months prior to the date of the application, or the applicant has not operated the property or has no knowledge of the income and expenses of such operation for the last entire fiscal year which ended at least six months prior to the date of the application, income and expense figures shall be filed, either with the application or prior to the twenty-fifth day of March in the year of the application, reflecting the period of the applicant's operation or knowledge of the operation of the property during the fiscal year preceding the date of the application, provided such period encompassed at least six months and further provided however, such fiscal year ends prior to the taxable status date under review;

(e) if the applicant has not operated the property for at least six months of the calendar year preceding the date of the application and is without knowledge of the income and expenses of operation, it shall state such facts under oath in lieu of filing an income and expense statement.

f. The filing of an application in the manner and form hereinabove described shall be prerequisite to the review of a final determination of the tax commission as provided in section one hundred sixty-six. Such application, in the case of real property indicated on a tax map by a parcel number, shall be filed in the office of the tax commission in the borough in which such

real property is situated and in the case of real property indicated by an identification number, it shall be filed in the main office of the tax commission. Employees of the commission assigned by the president for the purpose of receiving such applications are thereby authorized to administer oaths between the fifteenth day of January and the first day of March.

Sec. 164. Procedure on application. Between the fifteenth day of January and the twenty-fifth day of May, the tax commission may itself or by a commissioner or assessor thereunto authorized by the commission, act upon applications, compel the attendance of witnesses, administer oaths or affirmations and examine applicants and other witnesses under oath. It shall make rules of practice for proceedings before the tax commission, and such rules and regulations as may be appropriate and expedient to the end that the taxpayers may have a hearing in the borough in which they reside or in which their property is located, except that all applications with respect to property indicated on the tax maps by identification numbers shall be heard by the tax commission sitting as a body at its main office.

b. The tax commission shall determine the final assessed valuation or taxable assessed valuation, or the actual assessment or transition assessment, or the proper class designation of the real property of each applicant. The final assessed valuation or taxable assessed valuation of real property may be the same as or less than the original assessment or, if determined to be unlawful, the same shall be ordered stricken from the roll or



where appropriate entered on the exempt portion of the roll. If it is determined that the real property is misclassified, the correct class designation or allocation of assessed valuation shall be entered on the roll.

Sec. 164-a. Procedure on application for correction of an assessment of seven hundred fifty thousand dollars or more. a. Notwithstanding any other provision of this charter or the administrative code, the tax commission may itself or by a commissioner or assessor authorized by the commission act upon applications for correction of an assessment of real property assessed at seven hundred fifty thousand dollars or more between the first day of February and the first day of September. Any such application shall specify all income received or accrued and all expenses paid or incurred in the operation of the property during the calendar year preceding the date of application, or during the applicant's last fiscal year preceding the date of the application if the applicant's books and records are maintained on a fiscal year basis for federal income tax purposes which ends six months or more prior to the date of application, or during any part of such calendar or fiscal year in which the property was operated by the applicant, except that where the applicant has not operated the property and is without knowledge of the income and expenses of the operation, it shall state such facts under oath in lieu thereof. In the event that the statement of income and expenses is not filed as part of the application, such statement, when duly verified, shall be filed prior to the twenty-fifth day of March.

b. All other provisions of law shall apply to the review of applications for correction of tentative assessed valuation of property assessed for seven hundred fifty thousand dollars or more except insofar as the dates contained therein are inconsistent with the dates set forth in this section.

c. The power of the tax commission to remit or reduce taxes pursuant to section 153b-2.0 of the administrative code is extended for a period of three months but in no event later than September first.

d. Whenever such a reduction is granted after a final completion of the assessment roll any tax imposed upon the amount of such reduction shall be refunded or credited as soon as practicable.

e. Any reduction shall be made public within sixty days after it is rendered. A list of reductions in real property assessments shall be published thereafter in the city record on or before the first of November.

Sec. 164-b. Procedure on application for correction of an assessment of class one property.

a. When used in this section:

1. "Class designation" shall mean the determination, pursuant to article eighteen of the real property tax law, of whether real property is included in class one, two, three or four.

2. "Excessive assessment" or an assessment which is excessive shall mean and include:

(a) an entry on an assessment roll of the assessed valuation of real property which exceeds the full value of real property; or

(b) an entry on an assessment roll of the taxable assessed valuation of real property which is excessive because the real property failed to receive all or a portion of a partial exemption to which the real property or owner thereof is entitled pursuant to the law authorizing the partial exemption; or

(c) an entry on the assessment roll of an assessed valuation for real property which is excessive because of a failure to comply with the limitations on increases in assessed value set forth in section eighteen hundred five of the real property tax law.

3. "Misclassification" or real property which is misclassified shall mean and include:

(a) an entry on an assessment roll of an incorrect class designation; or

(b) an entry on the assessment roll of a class designation which results in an incorrect allocation of a parcel's assessed valuation between two or more classes.

4. "Unequal assessment" or an assessment which is unequal shall mean and include an entry on an assessment roll of the assessed valuation of real property improved by a one, two or three family residence which is made at either a higher proportion of full value than the assessed valuation of other residential property on the same roll or at a higher proportion of full value than the assessed valuation of all real property on the same roll.

5. "Unlawful assessment" or an assessment which is unlawful shall mean and include:

(a) an entry on the taxable portion of the assessment roll of the assessed valuation of real property which, except for the provisions of section four hundred ninety of the real property tax law, is wholly exempt from taxation; or

(b) an entry on an assessment roll of the assessed valuation of real property which is entirely outside the boundaries of the city of New York; or

(c) an entry on an assessment roll of the assessed valuation of real property which cannot be identified from the assessment roll description or tax map land parcel number on the assessment roll; or

(d) an entry of the assessed valuation of real property on an assessment roll which has been made by a person or body without the authority to make such entry.

b. Notwithstanding any other provision of this charter or administrative code, any party claiming to be aggrieved by the assessed valuation of a parcel designated class one pursuant to the provisions of article eighteen of the real property tax law may apply for correction of such assessment from the fifteenth day of January until the fifteenth day of March, including the filing of exemptions for senior citizens, and the office of the real property assessment bureau of the department of finance in each borough shall remain open for accepting such applications during normal business hours and for at least three additional hours each



week.

c. the grounds for review of an assessment shall be that the assessment complained of is excessive, unequal, unlawful, or that the real property is misclassified.

d. The application for correction of assessment shall be on a form prescribed by the tax commission and shall contain a statement specifying the respect in which the assessment is excessive, unequal, or unlawful, or the respect in which the real property is misclassified, and the reduction in assessed valuation or taxable assessed valuation or change in class designation or allocation of assessed valuation sought. Such application must be made by the aggrieved party or by some person authorized in writing by the aggrieved party or his agent to make such statement who has knowledge of the facts stated therein. Such written authorization must be made a part of the application and bear a date within one year of the date on which the application is filed. In lieu of a verification the application shall contain the following sentence: "I certify that all statements made on this application, including the attached sheet(s) consisting of pages, are true and correct to the best of my knowledge and belief and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relevant to the making and filing of false statements."

e. The tax commission shall thereafter determine the final assessed valuation or taxable assessed valuation, or the actual assessment or transition assessment, or the proper class

designation of the real property of each applicant. When the applicant specifies that the assessment is unequal, in addition to other evidence presented, the tax commission shall consider the residential assessment ratio determined pursuant to section seven hundred thirty-eight of the real property tax law. The final assessed valuation or taxable assessed valuation of real property may be the same as or less than the original assessment or, if determined to be unlawful, the same shall be ordered stricken from the roll or where appropriate entered on the exempt portion of the roll. If it is determined that the real property is misclassified, the correct class designation or allocation of assessed valuation shall be ordered entered on the roll.

f. All other provisions of law shall apply to the review of applications for correction of tentative assessed valuation of class one property except when inconsistent with any provision of this section.

Sec. 165. Final determination of the tax commission. The final determination of the tax commission upon any application for the correction of an assessment shall be rendered not later than the twenty-fifth day of May. Otherwise, the assessment objected to shall be deemed to be the final determination of the tax commission.

Sec. 165-a. Notices of final determination on applications for owner-occupied residential property. On or before the last day provided by law for the rendering of the final determination of the tax commission pursuant to section one hundred sixty-five of

this charter the tax commission shall mail to each applicant who has filed an application for the correction of the assessment of a one, two or three family residential structure, except such property held in a cooperative or condominium form of ownership, a notice of the tax commission's determination of his assessment. Such notice shall also contain the statement: "If you are dissatisfied with the determination of the New York city tax commission and you are the owner of a one, two or three family residential structure and reside at such residence, you may seek judicial review of your assessment either under title one of article seven of the real property tax law or under the small claims assessment review law provided by title one-A of the real property tax law." Such notice shall also state the last date to file petitions for judicial review and the location where small claims assessment review petitions may be obtained. Failure to mail any such notice or failure of the applicant to receive the same shall not affect the validity of the assessment.

Sec. 166. Proceeding to review final determination of the tax commission. A proceeding to review or correct on the merits any final determination of the tax commission may be had as provided by law, and if brought to review a determination mentioned in section one hundred sixty-five must be commenced before the twenty-fifth day of October following the time when the determination sought to be reviewed or corrected was made.

Sec. 167. 1. Real property owned by one or more persons each of whom is sixty-five years of age or over or real property owned

by husband and wife one of whom is sixty-five years of age or over shall be exempt from taxes on real estate to the extent of fifty percentum of the assessed valuation thereof.

2. Exemption from taxation for school purposes shall not be granted in the case of real property where a child resides if such child attends a public school of elementary or secondary education.

3. No exemption shall be granted:

(a) If the income of the owner or the combined income of the owners of the property exceeds the sum of twelve thousand twenty-five dollars for the income tax years immediately preceding the date of making application for exemption. Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include gifts, inheritance, or a return of capital. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.



(b) Unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twenty-four consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four consecutive months, and provided further, that in the event of a transfer by either husband or wife to the other spouse of all or part of the title to the property the time of ownership of the property by the transferer spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four consecutive months, and provided further, that where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, and where a residence is sold and replaced with another within one year and is in the same assessment unit, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be

consecutive for purposes of this section.

(c) Unless the property is used exclusively for residential purposes.

(d) Unless the property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property.

4. Application for such exemption must be made by the owner, or all of the owners of the property, on forms prescribed by the state board to be furnished by the tax commission and shall furnish the information and must be executed in the manner required or prescribed in such form and shall be filed in the office of the tax commission in the borough in which the real property is located between the fifteenth day of January and the first day of March.

5. At least sixty days prior to the fifteenth day of January the tax commission shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed between the fifteenth day of January and the fifteenth day of March and be approved in order for the exemption to be granted. The tax commission shall, within three days of the completion and filing of the tentative assessment roll, notify by mail any applicant who has included with his application at least one self-addressed, prepaid envelope, of the approval or denial of the application, however, where an applicant has included two such envelopes, the tax commission shall, upon

the filing of the application, send by mail, notice of receipt of that application. Where an applicant is entitled to the notice of denial provided herein, such notice shall state the reasons for such denial and shall further state that such determination is reviewable in a manner provided by law. Failure to mail any such application form or notices or the failure of such person to receive any or all of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

6. Any conviction of having made any wilful false statement in the application for such exemption shall be punishable by a fine of not more than one hundred dollars and shall disqualify the applicant or applicants from further exemption for a period of five years.

7. Notwithstanding the maximum income exemption eligibility level provided in subdivision three of this section, an exemption, subject to all other provisions of this section, shall be granted as indicated in the following schedule:

Annual Income	Percentage Assessed Valuation Exempt From Taxation
More than \$12,025.00 but less than \$12,525.00	....45 per centum
\$12,525.00 or more but less than \$13,025.00	.....40 per centum
\$13,025.00 or more but less than \$13,525.00	.....35 per centum
\$13,525.00 or more but less than \$14,025.00	.....30 per centum
\$14,025.00 or more but less than \$14,525.00	.....25 per centum

\$14,525.00 or more but less than \$15,025.00 .....20 per centum

8. Exemption from taxation as provided in this section on real property owned by husband and wife, one of whom is sixty-five years of age or older, once granted, shall not be rescinded solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age.

Sec. 168. Tribunal for tax appeals.

a. An independent tax appeals tribunal is hereby established. The tribunal shall have jurisdiction to hear and determine appeals from determinations by the commissioner of finance, pursuant to paragraph (a) of subdivision two of section one thousand five hundred and four of this charter, relating to all nonproperty taxes, excise taxes and annual vault charges, except those taxes and charges administered by the State of New York on behalf of the City of New York. The tribunal shall review petitions and other documents submitted to it, hold hearings, and render decisions as provided in this chapter. In rendering its decisions on claims asserted by taxpayers or the commissioner of finance, the tribunal shall have the same power and authority as the commissioner of finance to impose, modify or waive any taxes within its jurisdiction, interest thereon, and any applicable civil penalties. In appeals in which the rules of the commissioner of finance are at issue, the tribunal shall have the power and authority to rule on the legality of such rules.

b. The tribunal shall be composed of three commissioners, each of whom shall be appointed by the mayor. The mayor shall



designate one of the three commissioners as president of the tribunal, who shall serve as president during his or her term as commissioner. The president of the tribunal, in addition to performing his or her duties as a commissioner, shall be in charge of the administration and operation of the tribunal. Each commissioner shall serve a term of six years, except the mayor shall specify in the case of the first three commissioners appointed that (i) the term of one of those commissioners shall expire on June thirtieth, nineteen hundred and ninety-two, (ii) the term of another of those commissioners shall expire on June thirtieth, nineteen hundred and ninety-four, and (iii) the term of the commissioner designated president shall expire on June thirtieth, nineteen hundred and ninety-six. The mayor may remove any commissioner from the tribunal for neglect of duty, for inability to perform duties because of mental or physical disability, for malfeasance or for any other just cause, after providing such commissioner prior notice and an opportunity to be heard. The mayor shall fill any vacancy in the tribunal occurring other than by expiration of term in the same manner as for making original appointments, except an appointment to fill a vacancy shall expire at the end of the term of the commissioner whose departure created the vacancy. The number of commissioners on the tribunal may be increased by local law.

c. No person shall be appointed as a commissioner unless that person possesses substantial knowledge and competence in the area of taxation and has been admitted to practice as an attorney in

the State of New York for at least ten years. Every commissioner, while in office, shall give his or her whole time to the duties of the office, and shall not engage in the practice of law or other occupation, profession or employment. Each commissioner shall receive an annual salary in the same amount as is payable to a judge of the civil court of the City of New York. A commissioner's annual salary shall not be diminished during his or her term of office.

Sec. 169. Rules of tribunal.

Pursuant to chapter forty-five of this charter, the tribunal shall promulgate rules of procedure, which shall include, but not be limited to, rules on the following matters:

a. The types of representatives, such as accountants, who may appear, in addition to lawyers, on behalf of a petitioner before the tribunal;

b. The form and contents of the petition, answer, affidavits and memoranda to be submitted to the tribunal, and reasonable time limitations for serving and filing such papers;

c. A reasonable fee to be paid by a petitioner to the tribunal upon commencing an appeal before it;

d. A procedure for promptly hearing and determining any appeals concerning jeopardy assessments or predecision warrants based thereon;

e. A procedural system guaranteeing a hearing in compliance with chapter forty-five of this charter to be followed in cases which the tribunal determines to involve either (1) a matter

in controversy exceeding ten thousand dollars, exclusive of interest and penalties, or (2) sufficiently substantial significance to warrant a hearing pursuant to this section. Such a system shall be designed to assign each appeal to an individual commissioner, who shall be responsible for hearing all aspects of that appeal pursuant to subdivision (f) of section one hundred and seventy. Such a system also shall be designed to enable the president to order that an appeal be heard or re-heard by the tribunal in banc when consideration by the full tribunal is necessary to secure or maintain uniformity of its decisions. Such a system also shall provide for a pre-hearing conference at which settlement is encouraged; reasonable limited discovery; a method by which either a taxpayer or the commissioner of finance may request a hearing; and the submission of only one set of papers addressing both the factual and legal merits in each proceeding, except in situations in which the tribunal determines exceptional circumstances require otherwise;

f. A procedural system to be followed in cases in which the matter in controversy is ten thousand dollars or less, exclusive of interest and penalties. Such a system shall be designed to provide a simplified and informal procedure for such small claims proceedings; and

g. A method for notifying taxpayers and the commissioner of finance of, and for publishing, the decisions of the tribunal.

Sec. 170. Commencing an appeal before the tribunal.

a. Any taxpayer who has been issued a determination by the

commissioner of finance, subsequent to being afforded an opportunity for a hearing before the commissioner of finance, of that taxpayer's liability for taxes or annual vault charges administered by the City of New York, pursuant to paragraph (a) of subdivision two of section one thousand five hundred and four of this charter, may commence an appeal to the tribunal. To commence an appeal, such a taxpayer must, within ninety days after being issued the determination at issue by the commissioner of finance, both (1) serve a petition upon the commissioner of finance and (2) file the petition with the tribunal. The tribunal shall not extend the time limitation for commencing an appeal for any petitioner failing to comply with such time limitation. The petition shall contain a plain and concise statement of the facts and law on which the appeal is based.

b. Within thirty days after service of the petition on the commissioner of finance, the commissioner of finance shall serve and file an answer responding to each of the allegations in the petition and setting forth all affirmative defenses and requests for counter-relief.

c. Neither the petitioner nor the commissioner of finance shall raise any factual or legal issue or make any requests for relief not raised or made earlier in the proceedings before the commissioner of finance without leave of the tribunal, unless a change in the law applicable to the matter in controversy is the basis for raising a new issue or making a new request for relief.

d. The filing of a petition with the tribunal shall not stay



(1) the collection of any taxes or annual vault charges or (2) the payment of any refund of taxes or annual vault charges, together with interest and penalties, due and payable as of the date of the commissioner of finance's determination, unless (1) otherwise provided by law or (2) the tribunal issues a stay conditioned upon a showing that the petitioner has furnished sufficient security for the payment of the tax or annual vault charge, interest thereon and penalties to the commissioner of finance.

e. The tribunal shall not accept for determination any petition concerning a matter for which the petitioner has failed to exhaust all available hearings, appeals and other remedies provided by the commissioner of finance.

f. At the discretion-of the tribunal, the tribunal may (1) confine its factual review to the record established below before the commissioner of finance, (2) hear and determine any issues of fact de novo, or (3) remand to the commissioner of finance for further findings of fact. The tribunal's decision to confine its factual review in any appeal to the record below shall not prevent the tribunal from determining any legal issue or rendering a final decision contrary to the determination rendered below by the commissioner of finance. Unless otherwise provided by law, the party seeking relief as to each issue shall bear the burden of proof. The tribunal shall take into consideration as precedent the prior precedential decisions of the tribunal (but not of its small claims division), the New York State Tax Appeals Tribunal or of any federal or New York state court or the U.S. Supreme Court

insofar as those decisions pertain to any substantive legal issues currently before the tribunal.

Sec. 171. Decisions of the tribunal and judicial review.

a. The tribunal shall render each of its decisions in writing. Each of its decisions, with the exception of those rendered in the small claims division, shall contain a statement of the tribunal's judgment, its findings of fact, and the tribunal's conclusions of law. A final decision of the tribunal may (i) grant in whole or in part the relief sought by the petitioner and/or the commissioner of finance, or (ii) dismiss the petition or request for counter-relief either on the merits or with leave to renew.

b. Each decision of the tribunal, including the decisions of its small claims division, shall finally and irrevocably decide all the issues raised in the proceedings before it, unless the petitioner who commenced the proceeding or the commissioner of finance seeks judicial review of any such decision in compliance with the time limitations and other applicable provisions of the Administrative Code and any other applicable law relating to judicial review of determinations by the commissioner of finance. Any determination by the commissioner of finance shall not become final and irrevocable until the taxpayer has exhausted all available hearings, appeals and other remedies provided by the tribunal.

c. A decision of the tribunal shall be deemed to have been rendered on the postmarked date on the decision sent by certified

mail, return receipt requested, to the address most recently provided by the aggrieved party to the tribunal.

Sec. 172. Sanctions.

a. The failure of any party to appear for a conference or hearing without having obtained an extension from all the opposing parties or the tribunal at least forty-eight hours in advance of such conference or hearing shall be grounds for the tribunal to enter a decision in favor of the opposing party or parties.

b. The signing of any paper submitted to the tribunal constitutes a certificate by the signer that the signer has read the paper, and that to the best of the signer's knowledge, information and belief formed after reasonable inquiry, the paper is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that the paper is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of the proceedings. If a paper is signed in violation of this section, the tribunal, upon motion or upon its own initiative, shall impose upon the person who signed the paper, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties such sanction. The amount of any sanction shall be related to the amount of reasonable expenses, including a reasonable attorney's fee, incurred by the other party or parties because of the serving or filing of the paper.

## CHAPTER 8

## CITY PLANNING

Sec. 191. Department and director of city planning. a. There shall be a department of city planning, the head of which shall be the director of city planning. He shall be chairman and a member of the city planning commission.

b. The director of city planning shall:

1. Advise and assist the mayor, the board of estimate and the council in regard to the physical planning and public improvement aspects of all matters related to the development of the city.

2. Provide staff assistance to the city planning commission in all matters under its jurisdiction.

3. Be the custodian of the city map and record thereon all changes legally authorized.

4. Conduct continuous studies and collect statistical and other data to serve as the basis for planning recommendations.

5. Provide community boards with such staff assistance and other professional and technical assistance as may be necessary to permit such boards to perform their planning duties and responsibilities under this chapter.

6. Perform such other functions as are assigned to him by the mayor or other provisions of law.

c. The department shall employ such planning experts, engineers, architects and other officers and employees as may be required to perform its duties, within the appropriation



therefor.

Sec. 192. City planning commission. a. There shall be a city planning commission to consist of the chairman and six members to be appointed by the mayor. The appointments shall be made so that there is at least one resident of each borough on the commission. Except as otherwise provided in section one hundred ninety-one, no member shall hold any other city office. Members other than the chairman shall be appointed for a term of eight years. In case of a vacancy in the office of a member other than that of the chairman, the mayor shall appoint a member to serve for the remainder of the unexpired term.

b. One of the members other than the chairman shall be designated by the mayor as vice-chairman and shall serve as such at the pleasure of the mayor. The vice-chairman shall possess the powers and perform the duties of the chairman when the chairman is absent or while a vacancy exists in the office of chairman, and shall at such times serve as director of city planning.

Sec. 193. Removal by mayor after hearing. A member of the commission other than the chairman may be removed by the mayor only upon proof of official misconduct or of negligence in official duties or of conduct in any manner connected with his official duties which tends to discredit his office, or of mental or physical inability to perform his duties; and before removal he shall receive a copy of the charges and shall be entitled to a hearing before the mayor and to the assistance of counsel at such

hearing.

Sec. 197-a. Plans. a. The city planning commission shall be responsible for the conduct of planning relating to the orderly growth and improvement and future development of the city, including adequate and appropriate resources for the housing, business, industry, transportation, distribution, recreation, comfort, convenience, health and welfare of its population. Plans for the development, growth, and improvement of the city and of its boroughs and community districts may be initiated by (1) the mayor, (2) the city planning commission, (3) a borough board with respect to land located within two or more community districts, or (4) a community board with respect to land located within its community district. A community board or borough board that initiates any such plan shall conduct a public hearing on it and submit a written recommendation to the city planning commission. Plans initiated by the mayor or the city planning commission shall be referred to the affected community board or boards and, if land located within two or more community districts is included, to the affected borough board or boards for review and recommendation after public hearing. A community board or borough board may review a plan which does not involve land so located as to require its review if in its judgment the plan significantly affects the welfare of the district or borough served by such board. In such a case the plan and any advice relative thereto submitted by any officer or agency shall be made available to such board on request. Such board may hold its own

public hearing on such plan if it desires and may submit its own recommendations in regard thereto to the city planning commission. The city planning commission shall prepare and, with the approval of the mayor, establish the procedures and schedule for review and public hearings by community boards and borough boards on any plans initiated by the mayor or the city planning commission which involve matters of city-wide concern.

b. The city planning commission shall review any plan initiated pursuant to subdivision a of this section, hold a public hearing on it and recommend to the board of estimate approval, modification or disapproval of the plan. The board of estimate shall hold a public hearing on the plan and the recommendation of the city planning commission, and thereafter take final action of approval, modification or disapproval. The board may by a three-fourths vote override any action of the city planning commission which disapproved a plan. If the city planning commission has approved a plan with or without modification, the board of estimate may take final action on it by majority vote. Copies of approved plans shall be filed with the city clerk, the department of city planning and every borough president and the borough boards and community boards affected.

Sec. 197-b. Notification to community boards. Advance notification of all preliminary and final plans of public agencies and public benefit corporations or of private agencies, entities or developers filed with the city that relate to the use, development or improvement of land subject to city

regulation shall be given to the affected community board or boards and the office of the borough president, provided that exceptions may be made in matters of no appreciable public concern by agency rule [regulation pursuant to the provisions of section eleven hundred five].

Sec. 197-c. Uniform land use review procedure. a. Except as otherwise provided in this charter, proposals and applications by any person or agency for changes, approvals, contracts, consents, permits or authorization thereof, respecting the use, development or improvement of real property subject to city regulation shall be reviewed pursuant to a uniform review procedure in the following categories: (1) The city map pursuant to section one hundred ninety-eight and section one hundred ninety-nine; (2) Map of a subdivision or platting of land into streets, avenues or public places pursuant to section two hundred two; (3) Designations of zoning districts under the zoning resolution, including conversion from one land use to another land use, pursuant to section two hundred; (4) Special permits within the jurisdiction of the city planning commission under the zoning resolution, pursuant to section two hundred; (5) Site selection for capital projects pursuant to section two hundred twenty-seven; (6) Franchises and revocable consents involving residential, industrial, commercial, transportation or community facility projects pursuant to chapter fourteen; (7) Improvements in real property the costs of which are payable other than by the city pursuant to section two hundred



twenty-nine; (8) Housing and urban renewal plans and projects pursuant to city, state and federal housing laws; (9) Sanitary or waterfront land-fills pursuant to applicable charter provisions or other provisions of law; (10) Sale, lease, other than the lease of office space, exchange, or other disposition of real property to the city and of the real property of the city, and the proposed acquisition, sale or lease of land under water pursuant to section sixty-seven, section sixteen hundred three, chapter fifteen, and other applicable provisions of law; and, (11) Such other matters involving the use, development or improvement of property as are specified by the board of estimate upon recommendation of the city planning commission.

b. Each proposal or application shall be filed with the department of city planning, 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.

c. Each such community board shall, not later than sixty days after receipt of the proposal or application, either (1) notify the public of the proposal or application in a manner specified by the city planning commission pursuant to subdivision g of this section, (2) conduct a public hearing thereon and (3) prepare and submit a written recommendation directly to the city planning commission or waive the conduct of a public hearing and the preparation of such written recommendations where authorized

by this charter.

d. A copy of a recommendation by a community board pursuant to subdivision c of this section 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 as specified in subdivision c. Not later than thirty days after the filing of a recommendation or waiver with the borough board by every community board in which 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 recommendations and submit a written recommendation or waiver thereof to the city planning commission. .-

e. Not later than sixty days after the filing of a recommendation with it by a community board or borough board or the latest filing if there is more than one within the time allowed, the city planning commission shall approve, modify, or disapprove, the proposal or application and shall file its decision with the board of estimate. The city planning commission shall conduct a public hearing on any proposal or application on which a hearing was not held by a community board or borough board and on any other proposal or application on which a hearing is required by law. The commission may waive a public hearing if a community board or borough board held a public hearing after adequate notice. Prior to taking any action pursuant to this subdivision on a matter involving the siting of

a capital project, the sale, lease, exchange or other disposition of real property, a franchise or a revocable consent, the city planning commission shall obtain a report from the office of management and budget, the department of general services or the bureau of franchises, as appropriate. Any action of the city planning commission which modifies or disapproves a recommendation of the community board or borough board shall be accompanied by a written explanation of its reason for such action.

f. The city planning commission shall file copies of its decision or recommendation with the board of estimate, together with copies of any recommendation of a community board or borough board. Within sixty days of such filing, the board of estimate shall hold a public hearing on the matter and take final action by a majority vote unless otherwise specified in this charter.

g. The city planning commission, after [notice and] a public hearing, shall establish rules providing [and publish not later than June first, nineteen hundred seventy-six,] guidelines, minimum standards, and procedural requirements for community boards, borough boards and the commission in the exercise of their duties and responsibilities pursuant to this section.

h. If a community board, borough board, or the city planning commission fails or waives its right to act within the time limits for review pursuant to subdivisions c, d and e of this section, the proposal or application is referred to the next

level of review. If the board of estimate fails to act within the time limit specified in subdivision f of this section, any prior decision of the city planning commission with respect to the land use impact and implications is final.

i. Notice of any hearing on a proposal or application by the city planning commission or board of estimate shall be published in the City Record at least ten days immediately prior to the date of the hearing, and a copy of the notice shall be mailed to all community boards or borough boards affected by the proposal or application.

j. A community or borough board may review a proposal or application which is subject to uniform land use review procedure pursuant to this section but does not involve land so located as to require reference to such board for review, if in the board's judgment the proposal or application might significantly affect the welfare of the community district or borough served by such board. In such a case the proposal or application and the related materials submitted to the affected board or boards by the city planning department shall be submitted also to such board on request, and such board may hold its own public hearing thereon if it so desires and may submit its own recommendations in regard thereto to the city planning commission for consideration at any time before the city planning commission takes action thereon.

Sec. 197-d. Temporary exemption for certain city properties.

a. Notwithstanding the provisions of section eleven hundred



fifty-two or any other section to the contrary, chapter eight of this charter shall not apply to the sale, lease, exchange or other disposition of real property of the city of New York under the jurisdiction of the municipal service administration.

b. The provisions of this section shall remain in full force and effect only until the thirty-first day of December, nineteen hundred seventy-six.

Sec. 198. City Map. a. The city map, as the same shall exist at the time when this charter goes into effect, is hereby continued.

b. The director of city planning shall be the custodian of the city map, and it shall be his duty to complete and maintain the same and to register thereon all changes resulting from action authorized by law.

c. The city map shall be on file in the office of the department of city planning, and certified copies thereof and of all changes thereto shall be filed in the offices of the corporation counsel, the city clerk and of the borough president of the borough in which the land shown on the map is located and in the office in which conveyances of real estate are required to be recorded in the county in which the land shown on the map is located.

Sec. 199. Projects and changes in city map. a. No improvement or project affecting the city map and no addition to or change in the city map shall be authorized otherwise than as provided in this charter.

b. The review of any proposed addition to or change in the city map initiated by or referred to the city planning commission shall be made pursuant to section one hundred ninety-seven-c except that if the city planning commission (1) does not recommend approval or recommends a modification of the proposed addition to or change in the city map which is not acceptable to the board of estimate or (2) fails to act within the time limit specified in subdivision e of section one hundred ninety-seven-c, the board of estimate nevertheless may approve or modify the proposed addition to or change in the city map by a three-fourths vote.

Sec. 200. Zoning regulations. a. Except as provided in subdivision b, any existing resolution or regulation of 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 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:

1. The city planning commission may upon its own initiative

at any time or upon application as provided in section two hundred one, adopt a resolution for any such purpose subject to the limitations provided by law. Before adopting any such resolution, the commission shall notify any community board or borough board affected by the resolution and shall afford persons interested an opportunity to be heard at a time and place to be specified in a notice of hearing to be published in the City Record for the ten days of publication of the City Record immediately prior thereto setting forth in general terms the nature of the proposed resolution and a statement of the place at which the entire resolution may be examined. Any such resolution shall be filed with the secretary of the board of estimate within five days from the day of its adoption. .

2. Approval, disapproval or modification by the board of estimate of such a resolution by the commission recommending a change in the zoning resolution must occur within sixty days from the date of filing of the resolution with the board. In case the board shall fail to act on such affirmative resolution within such period of sixty days, such change shall be deemed approved and effective on the sixty-first day after the date of filing unless a protest of owners of affected property shall have been filed in accordance with the provisions of paragraph three. Any resolution for a zoning change which the mayor shall have certified to the planning commission as necessary, and which has been disapproved by the commission, may be adopted by the board of estimate by a three-fourths vote and, after notice to the

parties affected, a public hearing. The foregoing limitation of sixty days shall be inapplicable to such an adoption and the change shall become effective at a time fixed by the board of estimate.

3. In case a protest against such a proposed resolution approved by the city planning commission shall have been presented to the secretary of the board of estimate within thirty days from the date of the filing of such resolution with the board, duly signed and acknowledged by the owners of twenty per centum or more of the area of: (1) the land included in changes proposed in such proposed resolution, or (2) the land immediately adjacent extending one hundred feet therefrom, or (3) the land, if any, directly opposite thereto extending one hundred feet from the street frontage of such opposite land, such resolution shall not be effective after the filing of such protest unless approved by the board of estimate, either in the form in which it was filed or as modified by the board, by a three-fourths vote of the board within one hundred eighty days after the filing of said resolution with the secretary of the board of estimate. The effective date of such resolution, if so approved, shall be the date of such approval. A protest duly filed as herein provided may be withdrawn at any time within sixty days from the date of the filing of such resolution.

b. Designations of zoning districts under the zoning resolution and the issuance of special permits which under the terms of the zoning resolution are within the jurisdiction of the

city planning commission shall conform to the procedures provided in section one hundred ninety-seven-c, except that whenever the city planning commission has not recommended approval of a proposed change in the designation of a zoning district or the issuance of a special permit under the zoning resolution or has failed to act on such a matter within the time specified in section one hundred ninety-seven-c, the board of estimate by a three-fourths vote may approve such change or the issuance of such permit only if the mayor shall have certified to the city planning commission that such change or issuance is necessary.

Sec. 201. Applications for zoning changes. Applications for changes in zoning resolutions or regulations or for the issuance of special permits within the jurisdiction of the city planning commission under the zoning resolution may be filed by any taxpayer, community board, or borough board with the city planning commission. For applications involving changes in the designation of zoning districts or the issuance of special permits under the zoning resolution, the review and hearing procedure in section one hundred ninety-seven-c, as modified by subdivision b of section two hundred, shall be applicable. For applications involving other changes in zoning resolutions and regulations, the commission prior to taking action upon any such application shall refer it to the affected community boards or borough boards for a public hearing and recommendation.

Sec. 202. Platting of land and dedication of streets and public places. a. No map of a subdivision or platting of land



into streets, avenues or public places and blocks within the limits of the city shall be received for filing in the office in which instruments affecting real property are required to be recorded in the county in which the land is situated, unless such map shall have been submitted to the board of estimate and approved by such board, after transmittal to the city planning commission for report, by the same procedure as provided in subdivision b of section one hundred ninety-nine for changes in the city map. If such map is disapproved by the board of estimate, the secretary of the board shall certify such fact in writing upon such map, and such map shall be received only for record without such approval.

b. No street, avenue, highway or public place, the layout of which has not been approved as provided in this section, shall be deemed to have been accepted by the city as a street, avenue, highway or public place, unless such street, avenue, highway or public place shall lie within the lines of a street, avenue, highway or public place upon the city map.

CHAPTER 9  
CAPITAL PROJECTS AND BUDGET

Sec. 211. Definitions. a. As used in this charter: 1. The term "capital project" shall mean:

(a) A project which provides for the construction, reconstruction, acquisition or installation of a physical public betterment or improvement which would be classified as a capital asset under generally accepted accounting principles for municipalities or any preliminary studies and surveys relative thereto or any underwriting or other costs incurred in connection with the financing thereof.

(b) The acquisition of property of a permanent nature including wharf property.

(c) The acquisition of any furnishings, machinery, apparatus or equipment for any public betterment or improvement when such betterment or improvement is first constructed or acquired.

(d) Any public betterment involving either a physical improvement or the acquisition of real property for a physical improvement consisting in, including or affecting:

(1) Streets and parks;

(2) Bridges and tunnels;

(3) Receiving basins, inlets and sewers, including intercepting sewers, plants or structures for the treatment, disposal or filtration of sewage, including grit chambers, sewer tunnels and all necessary accessories thereof;

(4) The fencing of vacant lots and the filling of sunken lots.

(e) Any combination of the above.

2. The term "pending" shall mean not yet completed.

3. The term "standards" for each category of capital projects to which they apply shall include: maximum gross and net areas allowed; types of programs which may be operated in the facility; performance requirements for environmental systems; allowable materials and finishes; maximum areas allowed for different functions and activities; approximate cost limits per square foot of construction; and such other items designated by the mayor or by resolution of the board of estimate.

4. The term "scope of project" or "proposed scope of project" shall mean a detailed plan prepared for a capital project included in the capital budget that contains specific guidelines within general standards for the design and implementation of such project and includes:

(a) Purposes and public to be served;

(b) Programs to be conducted in the facility;

(c) Social, economic, and environmental impact statements;

(d) Gross amounts of space and bulk for any building or structure;

(e) Identification of required architectural, engineering or other consultants and estimated fees for such consultants;

(f) Schedule of design and construction;

(g) Total estimated project costs, including costs for site acquisition, preparation and tenant relocation, design,

construction and equipment;

(h) Estimated expenditures for the project for each fiscal year until its completion;

(i) Estimated annual costs to operate programs within the facility when fully staffed and to maintain the facility; and,

(j) Such other information as shall be required by the mayor or by resolution of the board of estimate.

5. The term "cost" shall include the contract liabilities and expenditure incurred for work in carrying out the physical improvement and interest thereon, and the compensation to be made to the owner of any real property acquired for the improvement as determined by a court or by agreement, and interest thereon.

6. The term "expenses" shall mean any expenses incurred in relation to an assessable improvement exclusive of cost and of damages assessed by the board of assessors.

7. The term "street," as used in this chapter, shall include street, avenue, road, alley, lane, highway, boulevard, concourse, parkway, driveway, culvert, sidewalk, crosswalk, boardwalk, and viaduct, and every class of public road, square and place, except marginal streets.

8. The term "real property" shall include all lands and improvements, lands under water, water front property, the water of any lake, pond or stream, all easements and hereditament, corporeal or incorporeal, and every estate, interest and right, legal or equitable, in lands or water, and right, interest, privilege, easement and franchise relating to the same, including

terms for years and liens by way of judgment, mortgage or otherwise.

9. The term "assessable improvement fund" shall mean the fund established pursuant to section three hundred. b. Unless otherwise provided in the capital budget, the cost and expense of the physical improvements or the acquisition of the real property for physical improvements contained in item (d) of subdivision one of paragraph a of this section shall be paid directly or indirectly in the first instance out of the assessable improvement fund and shall be recouped by the city with the taxes of so many fiscal years, not exceeding five, next succeeding the completion of the work or the acquisition of the property as shall be certified by the head of the department at whose request such real property was acquired or the improvement made.

Sec. 212. Report of comptroller.-- Not later than the first day of December in each year, the comptroller shall submit to the mayor, the board of estimate, the council and the city planning commission a report, which shall be published forthwith in the City Record, setting forth the amount and nature of all obligations authorized on account of each pending project and the liabilities incurred for each project outstanding on the first day of July and setting forth and commenting in detail upon the city's financial condition and advising as to the maximum amount of nature of debt and reserves which in his opinion the city may soundly incur for capital projects during each of the four succeeding fiscal years, and containing such other information as



may be required by the mayor.

Sec. 213. Certificate of the mayor. No later than the fifteenth day of January the mayor shall issue and publish his preliminary statement and no later than the twenty-sixth day of April the mayor shall issue and publish his certificate as to the maximum amount of debt and reserves which, in his opinion, the city may soundly incur for capital projects and all projects to be financed by capital debt during the ensuing fiscal year and the following three fiscal years, with any recommendations he may wish to make as to capital projects to be included in the capital budget. At any time up to the submission of his executive capital budget to the board of estimate and to the council, the mayor may amend such preliminary statement.

Sec. 214. Departmental estimates for capital projects. On such date as the mayor may direct the head of each agency shall submit to the director of management and budget, a detailed estimate of all capital projects pending or which he believes should be undertaken within the ensuing fiscal year and the three succeeding fiscal years. Such estimates shall be known as departmental estimates for capital projects and shall be in such form and contain such information as may be required by the mayor. Agencies shall consult with the community boards in the preparation of the estimates.

Sec. 214-a. Preliminary budget statements for capital projects. a. Not later than the fifteenth day of January, the mayor shall submit the preliminary budget statements for capital

projects to the board of estimate, council and each community board and borough board, the city planning commission and the department of city planning. Such preliminary budget statements shall consist of:

(1) a financial plan covering estimates of capital expenditures for the four ensuing fiscal years,

(2) departmental estimates for capital projects as provided in section 214 together with the cash flow requirements and proposed sources of funding for each project included in such estimates for the ensuing fiscal year and capital programs for the three succeeding years, and

(3) a capital program status report which sets forth the appropriations for each project included in the capital budget for the current fiscal year together with the expenditures to date.

b. Not later than the fifteenth day of February each community board shall

(1) hold a public hearing on the preliminary budget statements with respect to the capital needs and priorities of the community district, and

(2) submit a statement of its budget priorities and capital improvement needs for the ensuing fiscal year and the three succeeding fiscal years to the mayor, board of estimate, council, city planning commission, department of city planning, and the respective borough board.

c. Not later than the twenty-fifth day of February, each

borough board shall submit a comprehensive statement of the budget priorities and needs of the borough for the fiscal year and three succeeding years to the mayor, board of estimate, council, city planning commission, and department of city planning.

d. Not later than the fifteenth day of March, the city planning commission shall submit to the mayor, board of estimate, and council a report containing a statement of the city's capital needs and priorities, including recommended dollar allocations for general categories of programs and an explanation of recommended priorities among such categories of programs and their likely impact on the orderly growth and development of the city.

Sec. 215. Preliminary budget statements public records. Such preliminary budget statements shall be public records and shall at all reasonable times be open to public inspection.

Sec. 216. Preliminary capital hearings. a. Not later than the twenty-fifth day of March, the board of estimate and the council through its committees, shall hold joint hearings on the program objectives and fiscal implications of preliminary budget statements, the priorities of community boards and borough boards, the report of the city planning commission on the long range capital needs of the city, and the status of capital projects previously authorized. Representatives of the director of management and budget and the director of city planning may attend the hearings and ask questions. Officials of agencies,

when requested by the board of estimate or committees of the council, shall appear and be heard. The public and representatives of community boards and borough boards may attend and be heard.

b. Findings and recommendations of the board of estimate and the council, or its committees, as to capital projects proposed to be included in the budget shall be submitted to the mayor not later than the twenty-fifth day of March. The total dollar amount of such recommendations shall not exceed the maximum amount of debt set forth in the mayor's preliminary statement pursuant to section two hundred thirteen.

Sec. 219. Executive capital budget. a. Not later than the twenty-sixth day of April in each year, the mayor shall submit to the board of estimate and to the council with an explanatory message, a proposed executive capital budget for the ensuing fiscal year, the aggregate amount of which shall not exceed the amount in the mayor's certificate, and a proposed executive capital program for the three succeeding fiscal years.

b. The executive capital budget shall set forth separately each capital project and shall state:

1. A brief description and the location of each project; the total estimated cost of the project; the amount of obligations which have been authorized; the amount of obligations which are required to be authorized during the balance of the current fiscal year; the amount of obligations recommended to be issued in the ensuing fiscal year; the amount of obligations required

thereafter to complete the project; the sources of funds for the project; the period of probable usefulness; the estimated additional annual debt service; the estimated additional annual maintenance and operation costs; and any terms and conditions of the project;

2. A listing of all pending projects; any recommendations that any pending projects be modified, rescinded or postponed accompanied by a statement of the budgetary impact of any such action; and the estimated completion date for each project;

3. Information respecting capital projects which do not involve the appropriation of city funds or the issuance of city obligations;

4. A listing of noncapital projects and expense items and amounts proposed to be appropriated in the capital budget for each such project and item; and

5. A listing of proposed capital projects by community district and by borough and identification of those projects included in the statement of capital priorities submitted by each community board and borough board.

c. The executive capital program shall set forth:

1. A statement for each of the three succeeding fiscal years of total dollar authorizations and supporting schedules indicating the amount of funds obligated for each project, amounts necessary to complete projects initiated in prior years as proposed in the executive budget for both program categories and individual projects and amounts reserved for projects



proposed to be initiated in future budgets and for amendments and contingencies;

2. Forecasts for the succeeding three fiscal years, consistent with the capital budget, including assessed and full valuation of taxable real property, the constitutional debt limit, new capital debt to be issued, the tax rate on real property outside the constitutional limitation for operating purposes necessary to service existing debt and debt to be issued pursuant to the capital program.

3. A statement of the likely impact on the expense budget of staffing, maintaining and operating the capital projects included in or contemplated by the capital program; and

4. A statement of the "implications" of the capital projects included in or contemplated by the capital program for the orderly development of the city, its community districts and boroughs.

d. The proposed executive capital budget, executive capital program, and message from the mayor and any accompanying reports and schedules shall be public records and shall be published forthwith.

Sec. 220. Recommendations of comptroller and city planning commission. Not later than the sixth day of May, the comptroller and the city planning commission shall submit to the board of estimate and to the council reports, which shall be published forthwith in the City Record, containing such comments and recommendations with respect to the proposed executive

capital budget and capital program as they may deem advisable.

Sec. 221. Executive capital budget; hearings. Between the sixth day of May and the twenty-fifth day of May in each year, the board of estimate and the council shall hold public hearings on the proposed executive capital budget and executive capital program. The council may hold hearings as a body or by its finance committee or other committees. Such hearings may be held jointly by consent of both bodies. Officers of agencies and representatives of community boards and borough boards shall have the right, and it shall be their duty when requested by the board of estimate or the council, to appear and be heard.

Sec. 222. Capital budget; adoption.

a. The board of estimate and the council, by separate concurrent vote of each body, may increase, decrease or omit the amount of the appropriation for any capital project in the proposed executive capital budget or executive capital program, or add any new capital project to such proposed budget or program or add, omit, or change any term or condition of such proposed budget or program. Except as otherwise provided by law, and subject to the veto of the mayor pursuant to section two hundred twenty-three, the board of estimate and the council, by separate concurrent vote of each body, shall adopt a single capital budget and a single capital program, and they shall be returned to the mayor not later than the fifth day of June. In the event of a disagreement between the two bodies, each shall appoint members to a conference committee to reconcile differences and make

recommendations to the respective bodies.

b. If a single capital budget and a single capital program have not been adopted by the fifth day of June pursuant to subdivision a of this section, they shall be deemed adopted so far as acted on by both bodies with the lower amount of any item in dispute between the two bodies in effect.

c. The mayor shall not participate in any action or vote of the board of estimate on the executive capital budget or in any action or vote on the executive capital program.

Sec. 223. Veto of the mayor. a. Any action by the council on a capital project or on the terms and conditions of the capital budget shall be certified to the mayor by the president of the council. Any action by the board of estimate on a capital project or on the terms and conditions of the capital budget shall be certified to the mayor by the secretary of the board of estimate.

b. The mayor, not later than the tenth day of June, may disapprove any increase or addition to the executive capital budget or executive capital program or any increase or addition to any capital project in the executive capital budget or executive capital program, or any change in any term or condition of the executive capital budget or executive capital program. The mayor shall return the capital budget and capital program by that date to the board of estimate and council, setting forth his objections in writing.

c. Either the board of estimate by a two-thirds vote of all

the members of the board other than the mayor, or the council by a two-thirds vote of all the council members, may override any disapproval by the mayor pursuant to subdivision b of this section with the concurrence of the other body by a majority vote of all members other than the mayor in the case of the board of estimate. The board of estimate and the council shall act and the capital budget and capital program shall be adopted not later than the twentieth day of June. In the event the board of estimate and the council fail to act by that date, the capital budget and capital program as modified by the mayor are adopted.

d. Not later than the twenty-first day of June, the capital budget as finally adopted shall be certified by the mayor and the city clerk as the capital budget for the ensuing fiscal year. The capital budget shall, not later than five days after such certification be filed in the office of the comptroller and shall be published forthwith.

Sec. 224. Amendment. a. Upon receipt of a recommendation in writing from the mayor, the board of estimate and the council may amend the capital budget or capital program in the same manner as the adoption of the capital budget and capital program including the right to approve the proposed amendment as submitted or to increase or decrease the amounts of funds proposed to be appropriated thereby, but only if funds are available within the capital budget and the applicable program category of the capital program.

b. Upon the adoption of any such amendment by the board of estimate and by the council, it shall be certified by the mayor, the secretary of the board of estimate, the president of the council and the city clerk and the capital budget shall be amended accordingly.

c. Not later than five days after such certification such amendment shall be filed in the office of the comptroller and shall be published forthwith in the City Record.

Sec. 225. Restrictions on capital projects. a. No obligations of the city shall be issued or authorized for or on account of any capital project not included in a capital budget, or for which funds have not been reserved in an appropriate program category of the capital program for any year of such program in which it is projected that funds will be expended for the completion of the project, or in excess of the maximum amount of obligations which may be issued on account of such project as fixed in such capital budget; and no amount may be expended on account of any capital project in excess of the amount appropriated for such purposes in a capital budget, except that the amount appropriated for such purposes may be increased by the mayor by not more than fifteen per centum thereof in order to meet any costs required to advance such project. Notice of any such increase shall be provided to the board of estimate and council together with a statement of identifiable funds available for payment of the increase.

b. Funds included in the capital budget for a capital project



that are not obligated or committed during the fiscal year in which appropriated shall not be obligated or committed in the subsequent fiscal year unless reappropriated in a subsequent capital budget or an amendment thereto. A capital project included in a capital budget that is not initiated by the expenditure of funds within two years after its inclusion in the budget shall be eliminated from the budget.

c. Not later than the fiscal year commencing July first, nineteen hundred eighty-seven, the city may issue capital debt only to finance capital projects as defined in section two hundred eleven. The mayor, during a period of ten successive fiscal years, beginning with the fiscal year ending June thirtieth, nineteen hundred seventy-seven, shall progressively eliminate from the capital budget expense items that are properly includable only in the expense budget, as determined in accordance with the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as the same may be modified by the state comptroller, in consultation with the city comptroller, for application to the city. Such reduction shall be at the cumulative rate of at least ten percent per year from the total of the amount of expense items included in the capital budget for the fiscal year ending June thirtieth, nineteen hundred seventy-five, and no new or additional expense item or noncapital item shall be included in the capital budget during such period.

d. No capital project shall be included in the proposed

executive capital budget or otherwise adopted as part of the capital budget or as an amendment thereto unless sufficient funds are available within the appropriate general program category of the capital program for any year of such program in which it is projected that funds will be expended for the completion of the project.

e. No part of any consultant contract that is properly included only in the expense budget under generally accepted accounting principles for municipalities shall be paid for from obligations of the city which would add to or increase the capital debt of the city.

Sec. 227. Site selection. a. The selection of sites for capital projects shall conform to the uniform procedures provided pursuant to section one hundred ninety-seven-c.

b. To the maximum extent feasible, final approval of a site for a capital project shall occur prior to or simultaneously with the approval of the scope of the project pursuant to this chapter.

Sec. 228. Project initiation. a. The inclusion of a capital project in the capital budget as adopted or amended shall constitute a direction and order to the agency to proceed with the preparation of a scope of project pursuant to this chapter unless sufficient planning funds for such purpose have not been appropriated in the capital budget. The head of the agency shall notify the comptroller of the amount of appropriated planning funds to be encumbered for such purpose.

b. The approval of a scope of project for a capital project pursuant to this chapter, including the amount of obligations necessary to finance the design and construction of the project, shall constitute a direction and order to the agency to design the project, unless sufficient funds for such purpose have not been appropriated in the capital budget or are otherwise not available within the appropriate program category of the capital program. Such approval shall constitute notification to the comptroller of his authorization to expend appropriated design funds.

c. The approval of the final design for a capital project pursuant to this chapter shall constitute a direction and order to the agency responsible for construction to prepare bid and award documents and to proceed to bid, unless sufficient funds for such purpose have not been appropriated in the capital budget or are otherwise not available within each year of the capital program in which it is projected that funds will be expended for the completion of the project. Such approval shall constitute notification to the comptroller of his authorization to expend appropriated construction funds.

d. The mayor shall require each agency to prepare and submit to him periodic reports in regard to the progress of its capital projects, including schedules and explanations of any delays. Such reports shall be published on a quarterly basis and copies shall be transmitted by the mayor or his representative to the board of estimate, the council, the city planning commission, and

the respective community boards, borough boards and borough presidents.

e. Any capital project which results in the acquisition or construction of a capital asset which will be subject to the requirements of section eleven hundred ten-a shall contain a provision requiring a comprehensive manual setting forth the useful life of the asset and explaining the activities necessary to maintain the asset throughout such useful life.

[e] f. The mayor may issue directives and adopt rules and regulations in regard to the execution of capital projects, consistent with the requirements of subdivisions a, b, c and d of this section, which shall be binding upon all agencies.

Sec. 229. Improvements-payable other than by city. Any owner of real property or any other person interested may apply to the board of estimate to authorize an improvement referred to in paragraph (d) of subdivision one of section two hundred eleven hereof, not included in the capital budget. The board of estimate may authorize such improvement to be made by the city or by such owner or other person interested upon compliance with the following conditions:

1. Such owner or group or other persons interested shall enter into an agreement with the city, whereby he or they will either authorize the city, or himself or themselves agree, to perform such work in accordance with such plans and specifications approved by the agencies having jurisdiction thereover and under their supervision.



2. All of such work shall be done for the account of or at the sole cost and expense of the person or persons applying for permission to do the same, who shall furnish to the city such security and in such amount as may be required to secure the payment of such cost and expense or the proper performance of the said work in the time and in the manner agreed upon, and shall further secure the city, in the latter case, against latent defects in such work for a period of two years.

3. Such improvement shall be approved by the city planning commission and reviewed pursuant to section one hundred ninety-seven-c.

4. Any agreement providing for the performance of such work and the furnishing of such security, shall be first approved by the board of estimate before the same shall become effective.

Sec. 231. Standards for capital projects. The mayor shall prepare general standards and cost limits for categories of capital projects which shall be submitted by him to the board of estimate for review. The proposed standards shall become effective thirty days after they have been filed with the board of estimate unless within that time the board modifies or disapproves them or part of them, after conducting a public hearing.

Sec. 232. Scope of project. a. Each agency, with respect to a capital project under its jurisdiction included in a capital budget, shall prepare a proposed scope of project within appropriated planning funds. In preparing the proposed scope of



project, the agency shall consult with the community board for the community district in which the capital project is to be located. The proposed scope of project shall be submitted to the mayor and to the respective borough president and community board within nine months from the effective date of the budget in which the capital project is included. If the proposed scope of project is not submitted by such date, the board of estimate shall conduct a public hearing to determine the reasons for the delay.

b. Not later than sixty days after receipt of the proposed scope of project from an agency pursuant to subsection a of this section, the mayor shall approve, modify, or disapprove the proposed scope of project and notify the agency, borough president and community board. If a borough president or a community board petitions the board of estimate to review such action of the mayor within thirty days thereof, or if the mayor fails to act, the board of estimate after a public hearing may approve, modify, or disapprove the scope of project within sixty days. A scope of project approved by the mayor shall be effective thirty days after it has been acted upon by the mayor if no petition for review is made to the board of estimate within the specified time period.

c. No scope of project shall be approved unless (1) it conforms to the applicable standards for the type of project adopted pursuant to this chapter, and (2) funds are available within the appropriate program category of the capital program

that can be reserved for each fiscal year required to complete the project.

Sec. 233. Design of capital project. The proposed design and final design for a capital project shall be made available for review to the respective borough president and the community board for the community district in which the project is to be located. The mayor or his representative shall review the final design to determine its conformance with the approved scope of project pursuant to this chapter. Within thirty days after receipt of the final design, the borough president or community board may petition to have it reviewed by the board of estimate to determine only if the final design violates the scope of project or creates excessive costs. The board of estimate shall have thirty days within which to approve or disapprove the final design. If no petition for review is made to the board of estimate, and no objections are received by the mayor within the thirty day period, the final design shall be effective.

Sec. 234. Works of art. a. As used in this section the term "works of art" includes all forms of the visual and performing arts conceived in any medium, material or combination thereof.

b. Works of art shall be provided for each capital project which involves the construction or the substantial reconstruction of a city-owned public building or structure the intended use of which requires that it be accessible to the public generally or to members of the public participating in,

requiring or receiving programs, services or benefits provided thereat. For the purposes of this section a police precinct house and a firehouse shall be deemed to be such buildings.

c. An amount not less than one per cent of the first twenty million dollars and one-half of one per cent of any amount in excess of twenty million dollars of capital funds appropriated by the city for each such capital project, other than funds appropriated for the acquisition of real property, shall be allocated for works of art provided, however, that this section shall in no case require the expenditure of more than four hundred thousand dollars for works of art for any capital project; nor more than the sum of one and one-half million dollars for works of art in any fiscal year. The mayor may exempt a capital project from the provisions of this section if in his sole judgment the inclusion of works of art as provided hereby would be inappropriate.

d. Reasonable advance notification of the intention to include works of art in a project shall be provided to the appropriate district council member, council-members-at-large, borough president and chairperson of the community board of the district in which the project is located. All such works of art shall be subject to the approval of the art commission pursuant to section eight hundred fifty-four of this charter.

e. The mayor shall adopt rules and regulations to implement the provisions of this section.

## CHAPTER 10

## OBLIGATIONS OF THE CITY

Sec. 250. Assessment bonds. a. Serial bonds to meet the expenditures payable from the street and park openings fund or the street improvement fund for the payment of which the moneys available in either such fund are insufficient shall not be issued in an amount in excess of the amount of assessments remaining uncollected and a lien upon lands assessed, of awards confirmed and of advance payments to be made for or upon awards in proceedings upon which assessments remain to be imposed, and of contract liability and of payments on account of work in progress and work completed for which assessments remain to be imposed. The proceeds of the sale of all such bonds shall be paid into the fund on account of which the bonds were issued, and all such bonds shall be redeemed from such fund.

b. Serial bonds to meet the expenditures payable from an assessable improvement fund for the payment of which moneys available are insufficient shall not be issued in an amount in excess of the amount of assessments remaining uncollected, of awards confirmed and of advance payments to be made for or upon awards in proceedings upon which assessments remain to be imposed and of contract liability and of payments on account of work in progress and for work completed for which assessments remain to be imposed. The proceeds of the sale of all such bonds shall be paid into the fund on account of which the bonds were issued and



all such bonds shall be redeemed from such fund.

Sec. 251. Real property fund. There shall be a fund to be known as the "real property fund." There shall be paid into such fund the proceeds of all sales of real property of the city, except as otherwise provided by law.

Sec. 252. Payments from Real Property Fund. The comptroller may, in his discretion, authorize the expenditure of any money in the real property fund for the purchase of real property for which he has been authorized to issue obligations and within the amount authorized. Upon authorization of the board of estimate, the comptroller may, in his discretion, authorize the expenditure of any money in such fund for payment of any charges or expenses which the city is required to pay under the terms of any lease of real property owned by the city and leased to others and for payment of any costs or charges incurred by the city in connection with the maintenance, construction, improvement, repair, demolition, sale, rental or other disposition of real property owned by the city.

Sec. 253. Allocation of authorization to department of general services. So much of the amount of any obligation authorized as is applicable to the purchase of supplies, materials and equipment or the provision of services, utilities or facilities which the department of general services is authorized to purchase or provide shall be allotted to the department of general services, but shall be considered and accounted for as a part of the cost of the project for which the



obligations were authorized.

Sec. 254. Short term debt. a. Subject to the provisions of subsections b, c and d of this section, the city may issue temporary debt obligations in anticipation of taxes and revenues as authorized by state law.

b. Revenue or tax anticipation notes shall be issued against a specific tax or revenues receivable which are clearly identified by source and fiscal year.

c. If the amount of taxes or revenues receivable against which anticipation notes have been issued becomes equal to the amount of such notes outstanding, the city shall deposit all further funds obtained from such sources into a segregated bank account which may be used only to redeem such debt upon maturity.

d. The city shall not issue anticipation notes against taxes or revenues which have been receivable for more than two years.

## CHAPTER 11

SINKING FUNDS ESTABLISHED PRIOR TO JULY FIRST, NINETEEN HUNDRED  
EIGHT

Sec. 270. Application. The provisions of this chapter shall apply to the several sinking funds of the city established prior to July first, nineteen hundred eighty-one.

Sec. 271. Sinking fund of the city of New York. There is hereby continued the fund known as the "sinking fund of the city of New York" which shall have for its purpose the amortization and redemption of the principal of the debt of the city of New York incurred on and after the first day of January, eighteen hundred ninety-eight, and evidenced by corporate stock of the city of New York, excepting that issued to provide for the supply of water and that issued since the first day of January, nineteen hundred ten, for rapid transit or rapid transit unification purposes and that issued since the first day of July nineteen hundred eighty-one which is redeemable from the general sinking fund or any other sinking fund established pursuant to chapter eleven-A of this charter.

Sec. 272. Water sinking fund of the city of New York. There is hereby continued the fund known as the "water sinking fund of the city of New York" which shall have for its purpose the amortization and redemption of all corporate stock of the city of New York issued on and after the first day of January, eighteen hundred ninety-eight, to provide for the supply of water,

excepting that issued since the first day of July nineteen hundred eighty-one which is redeemable from the general sinking fund or any other sinking fund established pursuant to chapter eleven-A of this charter.

Sec. 273. Rapid transit sinking fund of the city of New York. There is hereby continued the fund known as the "rapid transit sinking fund of the city of New York" which shall have for its purpose the amortization and redemption of all corporate stock of the city of New York issued on and after the first day of January, nineteen hundred ten, for rapid transit purposes, excepting that issued since the first day of July nineteen hundred eighty-one which is redeemable from the general sinking fund or any other sinking-fund established pursuant to chapter eleven-A of this charter.

Sec. 273-a. Transit unification sinking fund of the city of New York. There is hereby continued the fund known as the "transit unification sinking fund of the city of New York" which shall have for its purpose the amortization and redemption of all corporate stock of the city of New York issued on and after the first day of January, nineteen hundred thirty-nine, for transit unification purposes.

Sec. 274. Administration of sinking funds. The comptroller shall administer and manage the several sinking funds of the city established prior to July first, nineteen hundred eighty-one and shall have custody of the securities in such funds. In the administration of such funds the comptroller shall be deemed to

be acting in a fiduciary capacity. Where moneys of such sinking funds are invested pursuant to section two hundred seventy-five of this charter, in securities which are obligations of the United States or of any agency, subdivision, department, division or instrumentality thereof, or obligations fully guaranteed or insured as to interest and principal by any agency, subdivision, department, division or instrumentality of the United States, acting pursuant to a grant of authority from the congress of the United States, notwithstanding any other provision of law, the comptroller may turn over the physical custody and safekeeping of these obligations to (a) any bank or trust company incorporated in this state, or (b) any national bank located in this state, or (c) any private banker duly authorized by the superintendent of banks of this state to engage in business here. All such private bankers shall, as private bankers, maintain a permanent capital of not less than one million dollars in this state. The comptroller may direct such bank, trust company or private banker to register and hold any such securities in its custody, in the name of its nominee. The comptroller may deposit, or authorize such bank, trust company or private banker, to deposit, or arrange for the deposit of, any of such securities with a federal reserve bank to be credited to an account as to which the ownership of, and other interest in, such securities may be transferred by entries on the books of such federal reserve bank without physical delivery of any such securities. The records of any such bank, trust company or private banker shall show, at all



times, the ownership of such obligations, and they shall, when held in the possession of such bank, trust company or private banker be, at all times, kept separate from the assets of such bank, trust company or private banker. When any such obligations are so registered in the name of a nominee, such bank, trust company or private banker shall be absolutely liable for any loss occasioned by the acts of such nominee with respect to such obligations.

Sec. 275. Investment of sinking fund moneys. The comptroller may invest the moneys of the several sinking funds of the city established prior to July first, nineteen hundred eighty-one in any of the following securities:

1. Obligations of the city of New York.
2. Obligations of the state of New York.
3. Obligations of the United States or of any agency, subdivision, department, division or instrumentality thereof, or obligations fully guaranteed or insured as to interest and principal by any agency, subdivision, department, division or instrumentality of the United States, acting pursuant to a grant of authority from the congress of the United States.
4. Obligations of the municipal assistance corporation for the city of New York.

Sec. 276. Annual appropriations to the sinking funds. For the redemption of the corporate stock redeemable from the several sinking funds of the city established prior to July first, nineteen hundred eighty-one there shall be included annually in



the budget and paid into each of such sinking funds an amount to be estimated and certified by the comptroller, which amount shall be not less than the aggregate of such annual contributions, as calculated at the time each issue of corporate stock redeemable from such sinking fund was made, would be sufficient if thereafter annually contributed to such fund together with the accumulations of interest thereon computed at the rate of four per centum per annum to meet and discharge such outstanding corporate stock when the same shall be payable; provided, however, that if at the close of a fiscal year there is in any sinking fund a surplus over and above the reserve required by such sinking fund computed as hereinabove provided, the comptroller, in estimating the amount to be included for such sinking fund in the budget, shall reduce the amount of the annual contributions by the amount of such surplus. Amounts received annually from the operation of any rapid transit railroad for the construction, equipment or acquisition of which corporate stock redeemable from any such fund shall have been issued, shall not be considered or treated as surplus, but such amounts shall be deducted from the amount certified by the comptroller for the budget for the ensuing year.

Sec. 277. Monthly report. Not later than the tenth day in each month, the comptroller shall submit to the board of estimate and the council a certified report, which shall be published forthwith in the City Record, setting forth the operations of the several sinking funds during the preceding month and the

condition of such funds at the commencement and close of such month and such other information as may be required.

Sec. 278. Annual report. Not later than the first day of September in each year, the comptroller shall submit to the board of estimate and the council a certified report, which shall be published forthwith in convenient form as a supplement to the City Record and which shall set forth in detail the operations of the several sinking funds during the preceding fiscal year, the reserves required, the assets of such funds at the close of such year, the obligations redeemable from such funds, the dates of their maturities and such other information as may be required.

## CHAPTER 11-A

SINKING FUNDS ESTABLISHED ON OR AFTER JULY FIRST NINETEEN HUNDRED  
EIGHT

Sec. 290. Application. The provisions of this chapter shall apply to the establishment, operation and administration of sinking funds established on or after July first, nineteen hundred eighty-one.

Sec. 291. General sinking fund. There is hereby established a general sinking fund to amortize and redeem any or all of the sinking fund bonds issued and sold from time to time by the city of New York on or after July first, nineteen hundred eighty-one for any purpose for which sinking fund bonds may be authorized, excepting sinking fund bonds which are redeemable from the sinking fund of the city of New York, the water sinking fund of the city of New York, the rapid sinking fund of the city of New York, or any additional sinking fund established pursuant to section two hundred ninety-eight of this chapter.

Sec. 292. Administration. The comptroller shall administer and manage the general sinking fund and any additional sinking funds established pursuant to section two hundred ninety-eight of this chapter and shall have custody of the securities and other assets in such funds. In the administration of such funds the comptroller shall be deemed to be acting in a fiduciary capacity.

Sec. 293. Terms and conditions with respect to the general sinking fund. a. The comptroller may: (1) provide for the

redemption, purchase and cancellation prior to maturity of sinking fund bonds redeemable for the general sinking fund; (2) establish accounts within the general sinking fund for the amortization and redemption of specific issues of sinking and bonds and provide for restrictions on the use of assets of any such account for purposes other than the redemption of the sinking fund bonds to be redeemed from such account; and (3) subject to the rights of bondholders and notwithstanding any other provision of this charter (i) withdraw moneys from the general sinking fund, or (ii) transfer any or all responsibility for the administration and management of the general sinking fund and the custody of securities and other assets contained therein to any bank or trust company incorporated in this state, or any national bank located in this state.

b. The sinking fund bonds of a particular series redeemable from the general sinking fund may differ among themselves in their stated maturities, rates of interest and applicable redemption provisions.

c. A schedule of annual or semiannual payments shall be established at the time of issuance of any series of sinking fund bonds redeemable from the general sinking fund sufficient to provide for the redemption of the principal amount of such bonds, and annual appropriations shall be made to the general sinking fund in accordance with such schedule of payments.

Sec. 294. Redemption. The sinking fund bonds to be redeemed from the general sinking fund or any additional sinking funds

established pursuant to section two hundred ninety-eight of this chapter may be selected in such manner as the comptroller may determine and may be identified on the face thereof. The principal amount of sinking fund bonds required to be redeemed on any date by payment from the general sinking fund or any additional sinking fund shall be reduced by the principal amount of any such bonds which has been timely purchased or redeemed and cancelled by the city and not theretofore applied as a credit against such requirements.

Sec. 295. Defeasance. A series or part of a series of sinking fund bonds redeemable from the general sinking fund or any additional sinking fund established pursuant to section two hundred ninety-eight of this chapter, including any covenants or other agreements relative thereto, shall be fully discharged and of no further force and effect at such time as (a) sufficient moneys or direct obligations of the United States or obligations guaranteed by the United States have been deposited in a separate trust account with a bank, trust company or other fiduciary, the principal of and/or interest on which will provide sufficient moneys to pay punctually when due at maturity or prior to maturity by redemption, in accordance with their terms, all principal of, applicable redemption premium, if any, and interest on such sinking fund bonds, and irrevocable instructions from the city to such bank, trust company or other fiduciary to make payment of such principal, applicable redemption premium, if any, and interest with such moneys shall have been given, or (b) such



sinking fund bonds, together with interest thereon, shall have been paid in full at maturity, or shall have otherwise been refunded, redeemed, defeased or discharged.

Sec. 296. Investments. Subject to subdivision a of section two hundred ninety-three, the comptroller may invest the moneys of the general sinking fund or any additional sinking funds established pursuant to section two hundred ninety-eight of this chapter in any securities in which the city is authorized to invest, including but not limited to the following securities:

(1) Obligations of the city of New York;

(2) Obligations of the state of New York;

(3) Obligations of the United States or of any agency, subdivision, department, division or instrumentality thereof, or obligation fully guaranteed or insured as to interest and principal by an agency, subdivision, department, division or instrumentality of the United States, acting pursuant to a grant of authority from the congress of the United States;

(4) Obligations of the municipal assistance corporation for the city of New York.

Sec. 297. The provisions of sections two hundred seventy-seven and two hundred seventy-eight of the charter shall apply to the general sinking fund and any additional sinking funds established pursuant to section two hundred ninety-eight of this chapter.

Sec. 298. Additional sinking funds. On or after July first nineteen hundred eighty-one the comptroller may establish from time to time additional sinking funds to amortize and redeem any

or all of the sinking fund bonds issued and sold from time to time by the city of New York on or after that date for any purpose for which sinking fund bonds may be authorized excepting sinking fund bonds which are redeemable from the sinking fund of the city of New York, the water sinking fund of the city of New York, the rapid transit sinking fund of the city of New York or the general sinking fund. Notwithstanding any inconsistent provision of section two hundred ninety-three of this chapter, such additional sinking funds shall be established with such terms and conditions as the comptroller shall prescribe.

Sec. 299. The comptroller shall determine whether sinking fund bonds issued on or after July first, nineteen hundred eighty-one shall be redeemable from any of the several sinking funds of the city established prior to July first nineteen hundred eighty-one, the general sinking fund or any of the additional sinking funds established pursuant to section two hundred ninety-eight of this chapter.

## CHAPTER 12

## ASSESSABLE IMPROVEMENT FUNDS

Sec. 300. Existing assessable improvement funds. The fund for street and park openings and the street improvement fund shall be continued for the purpose of paying from them the sums lawfully authorized to be paid or which may be authorized to be paid on account of assessable improvements lawfully authorized prior to the first day of January, nineteen hundred sixty-two. No other payments shall be made from such funds, and any cash remaining in either of them in excess of the liabilities chargeable thereto shall be paid into the assessable improvement fund.

CHAPTER 13  
CONTRACTS AND PURCHASES

Sec. 341. Scope. Except as otherwise provided in this charter or by statute, all supplies, materials and equipment to be furnished and work or labor to be done, to be paid for out of the city treasury or out of moneys under the control of or assessed or collected by the city, shall be furnished or provided as prescribed in this chapter.

Sec. 342. Purchases not requiring public letting. a. If the several parts of the work, labor or the supplies, materials and equipment to be done or furnished shall together involve an expenditure of not more than five hundred dollars, such purchase may be made without competition; provided, however, that the aggregate total of such purchase by any agency shall not exceed twenty thousand dollars in any one month without the prior approval of the board of estimate.

b. In the event of an emergency requiring an immediate purchase involving an expenditure of not more than one thousand dollars, such purchase may be made without competition. An "emergency", for this purpose, is an instance or situation in which: (1) a threat to health or safety exists, (2) a necessary service is threatened with material damage or suspension, or (3) buildings or property are threatened. Such emergency purchase shall require the prior approval of the commissioner of general services unless it is outside normal working hours.

c. If the several parts of the work, labor or the supplies, materials and equipment to be done or furnished shall together involve an expenditure of not more than ten thousand dollars, the items may be procured on order awarded to the lowest responsible bidder upon bids submitted without public advertisement. An order for construction, repair, rehabilitation or alteration may be awarded to the lowest responsible bidder without public advertisement if it involves an expenditure of not more than fifteen thousand dollars and is awarded pursuant to regulations and conditions prescribed by the board of estimate.

d. In the event of an emergency requiring an immediate purchase, a purchase order for equipment, supplies or materials involving an expenditure of more than five thousand dollars may be awarded to the lowest responsible bidder upon bids submitted without public advertisement on written approval of the comptroller and the corporation counsel accompanied by a statement of the reasons for such action.

e. Notwithstanding any other provision of this charter, the dollar limits pursuant to this section for purchases without public letting may be raised as to any or all agencies by the concurrent action of the board of estimate and council by a two-thirds vote of each body.

Sec. 343. Public letting. a. If the several parts of the work, labor or the supplies, materials and equipment to be done or furnished shall together involve the expenditure of more than five thousand dollars, or in the case of construction, repair,



rehabilitation or alteration, the expenditure of more than fifteen thousand dollars, such work or labor or supplies, materials, and equipment or construction, repair, rehabilitation or alteration shall be obtained only by contract on public letting founded on sealed bids under such regulations as shall be made by the board of estimate, except that in a special case the board of estimate by a two-thirds vote may order otherwise. The terms of such contracts shall be settled by the corporation counsel as an act of preliminary specification to a proposal for bids.

b. The agency letting the contract may reject all bids if it shall deem it for the interest of the city so to do; if not, it shall, without other consent or approval, award the contract to the lowest responsible bidder, unless the board of estimate by a two-thirds vote shall determine that it is for the public interest that a bid other than that of the lowest responsible bidder shall be accepted. Tie bids are to be decided by the agency letting the contract and the award made. Whenever a contract is awarded to another than the lowest bidder, except by action of the board of estimate, the agency awarding the same shall file in its office and in the offices of the comptroller, the commissioner of general services and the city clerk a statement in detail of the reasons therefor. Notwithstanding any other provision of this subdivision, the agency letting the contract may award the contract to other than the lowest bidder upon prior approval of the corporation counsel and the

comptroller.

c. Notwithstanding any other requirement of this section, any work or labor to be contracted or supplies, materials and equipment to be purchased, involving the use of funds received wholly or partially from or through the federal government, may be procured, ordered or awarded through the United States General Services Administration, if the price is lower than the prevailing market price.

d. No bid shall be valid unless accompanied by a deposit in the amount and manner set forth and specified in the proposal; provided, however, that the commissioner of general services shall establish such requirements for bid deposits as are necessary and practicable, and, pursuant to rules and standards [published in the City Record], may waive the bid deposit requirement for specific classes of purchase and, in his discretion, for individual transactions. Upon the award of the contract the deposits of unsuccessful bidders shall be returned to them, and the deposit of the successful bidder shall be returned to him upon his executing the contract and furnishing the required security.

e. Every proposal for bids shall contain a provision that in the event of the failure of the bidder to execute the contract and furnish the required security within ten days after notice of the award of the contract to him, his deposit or so much thereof as shall be applicable to the amount of the award made to him shall be retained by the city, and he shall be liable for and

shall agree to pay on demand the difference between the price bid and the price for which such contract shall be subsequently relet, including the cost of such reletting and less the amount of such deposit. No plea of mistake in such accepted bid shall be available to the bidder for the recovery of his deposit or as a defense to any action based upon such accepted bid.

Sec. 344. By whom procured. a. All work or labor to be performed by contract, including the furnishing of materials or supplies incident thereto, shall be obtained by the agency for whose use the appropriation therefor shall have been made, except as otherwise provided by law.

b. All other supplies, materials and equipment shall be purchased or procured by the department of general services, except as otherwise provided pursuant to this chapter or other law.

c. Pursuant to standards and guidelines of the commissioner of general services filed in the offices of the comptroller, the commissioner of finance, and the city clerk and published in the City Record, and subject to other sections of this chapter, each agency may purchase directly supplies, materials and equipment in an amount not to exceed one thousand dollars for each transaction or, with the prior approval of the commissioner of general services, in an amount not to exceed five thousand dollars for each transaction. The limitation of this subdivision shall not apply to purchases by an agency under a vendor contract entered into by the commissioner of general services.

d. The dollar limits for direct agency purchases without the prior approval of the commissioner of general services pursuant to subdivision c of this section may be raised to five thousand dollars for each transaction for any or all agencies by the commissioner of general services with the approval of the mayor. Any proposed increases in the limits for such purchases above five thousand dollars shall be subject to the further approval of the board of estimate. Any increase in dollar limits pursuant to this subdivision shall be published in the City Record and may be rescinded by the commissioner of general services, the mayor, or the board of estimate.

Sec. 345. Defaulter to city. Any person who is in arrears to the city, or any agency upon debt or contract, or who is a defaulter as surety or otherwise upon any obligation to the city or any agency, or who is in arrears for taxes, may be declared by the commissioner of general services or the head of any agency in the case of any purchase made by him, and in the case of any other contract by the comptroller at any time prior to the registration of the contract by him, not to be a responsible bidder, by filing in the offices of the comptroller, the commissioner of finance and the city clerk a statement in detail of the reasons therefor. Any person in arrears or who is a defaulter in the sum of five thousand dollars or more shall be declared not to be a responsible bidder for a period of three years unless some lesser period is prescribed by resolution of the board of estimate.



Sec. 346. Inspection. Inspection and acceptance or rejection of all deliveries of supplies, materials and equipment shall be made by the agency that makes the direct purchase other than under a vendor contract. The commissioner of general services may authorize an agency to which delivery is made to perform such functions on purchases made by the department of general services subject to standards and policies of the commissioner. The comptroller may continue to perform such inspectional duties as are necessary for auditing purposes, including ascertainment of whether items purchased and paid for by the department of general services or other agencies have been received and put to use by agencies.

Sec. 347. Specifications. All purchases shall be based upon specifications which are definite and certain, which permit of competition and which shall not be at variance with standard specifications for the various classes of supplies, materials and equipment approved by the commissioner of general services. Before adopting standard specifications the commissioner shall obtain and consider the recommendations of agencies using the items to be standardized.

Sec. 348. Patented, brand name, sole source articles; how supplied. Except for repairs no patented pavement shall be laid and no patented or brand name or sole source article shall be advertised for, contracted for or purchased, except under such circumstances that there can be a fair and reasonable opportunity for competition, pursuant to standards and policies of the



commissioner of general services. In the event that an item involves a purchase price of more than twenty-five hundred dollars, the determination of the commissioner shall be made after (1) the commissioner has conducted or authorized to be conducted a public hearing and (2) the approval in writing of the comptroller has been obtained.

Sec. 349. Consultant contracts. a. Except as otherwise provided by resolution of the board of estimate, no contract for the performance of technical, consultant or personal services for which competitive bidding is inappropriate, involving the expenditure of more than ten thousand dollars shall be awarded except after public hearing before and approval by a majority of the board of estimate. .-

b. Within ten days after the award of any contract for technical, consultant or personal services, notice thereof shall be published in the City Record.

c. This section shall not be applicable to contracts with planners, architects, engineers, or any other person or firm, if such person or firm and their estimated fees have been identified in a scope of project approved by the board of estimate pursuant to chapter nine.

d. All mayoral and non-mayoral agencies required to submit contracts to the board of estimate for approval pursuant to this section shall have [guidelines] rules setting forth their procedures regarding the use, oversight and reporting of contracts and selection of contractors for consultant, technical

and personal services which require approval pursuant to this section. Such [guidelines] rules shall include the following matters:

1. the circumstances under which such contracts may be used, which shall include but not be limited to, circumstances where the use of such contracts is (a) cost-effective, (b) to obtain special expertise, (c) to obtain personnel or expertise not available in the agency, (d) to perform a service not needed on a long-term basis, (e) to accomplish work within a limited amount of time, or (f) to avoid a conflict of interest;

2. the methods for selecting contractors, which may include but shall not be limited to recruiting methods, and contractor evaluation criteria such as expertise, resources, prior experience, familiarity with agency operations, cost, and financial capability;

3. the manner in which the agency shall oversee the performance of such contracts; and

4. agency record keeping procedures for such contracts.

The [guidelines] rules established pursuant to this subdivision shall be filed with the council and the board of estimate. [and shall be published in the City Record within 60 days of the effective date of this bill and any subsequent revisions thereof shall be so filed and published within 30 days of their promulgation.]

- e. When contracts are referred to the board of estimate for approval pursuant to this section, the agency head or the agency

head's designee shall submit to such board a statement of the reasons why the award of the contract is appropriate under the agency's [guidelines] rules.

f. Each entity subject to subdivisions d and e shall have published in the City Record an announcement of proposed contracts over fifty thousand dollars, 10 days prior to their submission to the board of estimate, or at a time shorter than 10 days when reasonable circumstances exist precluding compliance within the 10 day period. The reason for such delay or non-publication shall be set forth in the board of estimate calendar.

Sec. 350. Payments procedure. The commissioner of general services shall prepare and promulgate procedures, standards and guidelines for the expeditious processing of payment vouchers by city agencies and departments; and shall oversee, monitor, and report to the mayor, the board of estimate and the public on agency performance of such function.

## CHAPTER 14

## FRANCHISES

Sec. 361. Definition. The term "the streets of the city" as used in this chapter shall include streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharves, piers and public grounds or waters within or belonging to the city.

Sec. 362. Powers of board of estimate. The board of estimate shall have the control of the streets of the city, except as in this charter otherwise provided, and shall have the exclusive power in behalf of the city to grant franchises or rights or make contracts providing for or involving the occupation or use of any of the streets of the city, whether on, under or over the surface thereof, for railroads, pipe or other conduits or ways or otherwise for the transportation of persons or property or the transmission of gas, electricity, steam, light, heat or power, or the installation of transformer vaults, and to give the consent of the city to any franchise or right of any kind or nature whatsoever for or relating to the occupation or use of the streets of the city under the provisions of the constitution or of any statute.

Sec. 363. Franchise to be granted by contract. Every grant of or consent to a franchise of any character or modification thereof must be by contract executed by or under the authority of the board of estimate.

Sec. 364. Limitation on period of grant. a. No such contract shall be for a longer period than twenty-five years except that in the case of a tunnel railroad it may be for a period not exceeding fifty years.

b. The contract may, at the option of the city, provide for giving to the grantee the right of renewals not exceeding in the aggregate twenty-five years on a fair redetermination of the compensation to the city to be made upon standards and methods as therein specified.

Sec. 365. Rights to cease without compensation upon termination. At the termination of such contract all the rights or property of the grantee in the streets of the city shall cease without compensation.

Sec. 366. Plant and appurtenances may inure to city upon termination. a. Any such contract may provide that upon its termination the property, plant and equipment of the grantee shall, to the extent therein specified, thereupon be and become the property of the city, either without compensation to the grantee or on payment to the grantee of the fair value thereof as property, to be determined as provided in the contract, but excluding any value derived from the franchise.

b. The city shall have the option either to take and operate on its own account the property, plant and equipment when so acquired, or to lease the same for a term not exceeding twenty years.

Sec. 366-a. Review of proposals. a. A petition for a



franchise or revocable consent shall be filed with the board of estimate, department of city planning and the bureau of franchises.

b. Review by a community board or borough board of such petition shall be in the manner specified pursuant to section one hundred ninety-seven-c. Such review shall be limited to the land use impact and implications of the subject matter of the petition and shall not extend to any fees or compensation to be paid in connection therewith. A community board may waive a public hearing and the preparation of a written recommendation with respect to any such petition which in its judgment does not involve a substantial land use interest.

c. Notwithstanding any provision of this charter or the administrative code, revocable consents to construct and operate sidewalk cafes shall be reviewed pursuant to article ten of title B of chapter thirty-two of the administrative code.

Sec. 367. General provisions of contracts. a. Every such contract shall contain adequate provisions by way of forfeiture or otherwise to secure efficiency of public service at reasonable rates and for the maintenance of the property in good condition throughout the full term of the grant.

b. Every contract granting a franchise for the performance of any public service shall contain an agreement by the grantee to recognize the right of its employees to bargain collectively through representatives of their own choosing, and at all times to recognize and deal with the representatives duly designated or

selected by the majority of its employees for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment and not to dominate, interfere with or participate in the management or control of or give financial support to any union or association of its employees. This subdivision shall not apply to a contract providing for a modification or amendment of or extension of service under a franchise not containing a similar provision, provided that the term of such franchise is not extended thereby.

Sec. 368. Public hearing on the petition. a. Before any such contract shall be made, a public hearing shall be held by the board of estimate upon the petition therefor at which citizens, including representatives of community or borough boards, shall be entitled to appear and be heard. Such hearing shall be held on at least ten days' notice, which notice, together with the petition in full, shall be published in the City Record, and, at the expense of the petitioner, at least twice in two daily newspapers to be designated by the mayor and which are published in the borough affected. Where only one daily newspaper is published in the borough affected, the mayor shall designate that newspaper together with a daily newspaper published in the city of New York and having a circulation in the borough affected. Where more than one borough is affected or where no daily newspaper is published in the borough affected, the mayor shall designate two daily newspapers published in the

city and having a circulation in the borough or boroughs affected.

b. Copies of such notice, together with the petition in full, shall be forwarded to the community board or boards in the community district or districts affected, and to the borough board or boards for review pursuant to section one hundred ninety-seven-c.

Sec. 369. Inquiry by board of estimate. The board of estimate shall make inquiry as to the money value of the proposed franchise or right and the adequacy of the compensation proposed to be paid therefor, and shall embody the result of such inquiry in a form of contract, with all the terms and conditions, including the provisions as to rates, fares and charges.

Sec. 370. Proposed contract and resolution to be entered on minutes. Such proposed contract together with the form of resolution authorizing the same shall, but not until after the hearing upon the petition, be entered on the minutes of the board of estimate.

Sec. 371. Public hearing on proposed contract and resolution; publication of notice. The board of estimate shall, not less than twenty-seven days after such entry and before adopting any such resolution, hold a public hearing thereon at which citizens shall be entitled to appear and be heard. No such hearing shall be held until after notice thereof and the proposed contract and proposed resolution authorizing the same shall have been published in full for at least fifteen days, except Sundays and

legal holidays, immediately prior thereto in the City Record, nor until a notice of such hearing, together with the place where copies of the proposed contract and resolution may be obtained by all those interested therein, shall have been published at least twice at the expense of the proposed grantee in the two newspapers in which the petition and notice of hearing thereon shall have been published pursuant to section three hundred sixty-eight.

Sec. 372. Requisite vote of board of estimate for approval of resolution. No such resolution shall take effect unless carried by a three-fourths vote, and the vote shall be shown by ayes and noes as recorded in the minutes of the board.

Sec. 373. Powers of the mayor. . a. The separate and additional approval of the mayor shall be necessary to the validity of every such resolution.

b. Every such resolution shall before it takes effect be presented, duly certified, to the mayor for his approval. Such contract or resolution shall not be effective unless such resolution shall be approved by the mayor within sixty days after it is presented to him, or within such further time not exceeding sixty days additional as may be authorized by the board of estimate.

Sec. 374. Revocable consents. Consent to construct and use for private use pipes, conduits and tunnels under, railroad tracks upon, and connecting bridges over, any of the streets of the city shall be by resolution of the board of estimate, subject

to the uniform land use review procedure provided for in section one hundred ninety-seven-c, for such term and upon such conditions as may be provided in the resolution, but shall be revocable at any time by resolution of the board of estimate. Such consents shall provide for adequate compensation to be paid annually to the city during the continuance of the consent, and the separate and additional approval of the mayor shall be necessary to their validity.



CHAPTER 15  
PROPERTY OF THE CITY

Sec. 381. Authority to acquire real property. The city may acquire title in fee to real property or any interest therein whenever required for any public or municipal use or purpose or for the promotion of public utility, comfort, health, enjoyment or adornment. Such title or interest shall be acquired according to law by purchase, condemnation or otherwise.

Sec. 382. Notice to owners of proceeding to acquire property. In addition to all other requirements of law, written notice of the application to have compensation for real property ascertained in any proceeding brought by the city to acquire title to real property shall be given by the corporation counsel to the owners of all property affected by the proceeding at least ten days prior to such application, by mailing the same to such owners at the address registered or filed with the commissioner of finance for the purpose of forwarding to them bills for taxes, assessments and frontage water rates. Such notice shall state the purpose for which the property is to be acquired and the date when such application will be presented and shall contain a copy of such application. Upon request by the corporation counsel, the commissioner of finance shall furnish a certified list of the registered or filed names and addresses of such owners. Failure to comply with the direction contained in this section shall not invalidate or affect the proceeding.

Sec. 383. Inalienable property. The rights of the city in and to its water front, ferries, wharf property, bridges, land under water, public landings, wharves, docks, streets, avenues, highways, parks and all other public places are hereby declared to be inalienable; but upon the closing or discontinuance of any street, avenue, park or other public place, the property may be sold or otherwise disposed of as may be provided by law, and leases of land under water, wharf property, wharves, docks and piers may be made as may be provided by law. Nothing herein contained shall prevent the granting of franchises, permits and licenses in respect to inalienable property.

Sec. 384. Disposal of property of the city. a. No real property of the city may be sold, leased, exchanged or otherwise disposed of except with the approval of the board of estimate and as may be provided by law unless such power is expressly vested by law in another agency.

b. Except as otherwise specifically provided by law:

1. The board of estimate may authorize the sale or lease only for the highest marketable price or rental, at public auction or by sealed bids and after advertisement for at least thirty days in the City Record, of any real property belonging to the city or any interest therein, and no such lease shall run for a term longer than ninety-nine years. Any conveyance or lease may provide for the restriction of the use of such real property to purposes determined by the board of estimate.

2. Real property of the city may be leased only after

appraisal made within sixty days prior to the authorization of the lease by the board of estimate, provided, however, that advertisement for sealed bids shall be commenced within sixty days of such authorization.

3. Real property of the city may be sold only after appraisal made within six months prior to the authorization of the sale and after a review of such appraisal by the department of general services within thirty days prior to authorization of the sale, provided that advertisement for the public auction for such sale shall be commenced within sixty days of such authorization.

4. Notwithstanding the provisions of this charter, or any general, special, or local law to the contrary, the board of estimate may, with the approval of a majority of the members of the borough board of the borough in which such real property is located, lease any real property of the city, except inalienable property or any interest therein, to a local development corporation without competitive bidding and for such purpose or purposes and at such rental as may be determined by the board of estimate to be in the public interest, and no such lease shall run for a term longer than ninety-nine years.

5. Review by a community board or borough board of any proposal or application for the sale, lease (other than lease of office space), exchange or other disposition of city property or of property for the use of the city shall be in the manner specified pursuant to section one hundred ninety-seven-c. Such review shall be limited to the land use impact and implications

of the proposed transaction.

(a) A community board may waive the conduct of a public hearing and the preparation of a written recommendation with respect to any proposed lease of property which in the judgment of the board does not involve a substantial land use interest.

(b) The city planning commission may waive a public hearing on any proposal or application involving a lease of property.

6. The city planning commission shall act on any proposed lease of property of or for the city within sixty days of filing with it of the recommendation of a community board or borough board, or the latest filing if there is more than one filing within the time allowed under section one hundred ninety-seven-c. The commission may waive a public hearing on any proposal or application involving a lease of property.

CHAPTER 16HEADS OF MAYORAL AGENCIES

Sec. 385. Heads of mayoral agencies. a. This chapter shall apply to heads of agencies holding office upon appointment of the mayor and to heads of those units within the executive office of the mayor designated by the mayor to be covered by the provisions of the chapter. It shall not apply to agencies headed by boards, commissions, or other multi-member bodies whether appointed by the mayor or otherwise, nor to elected officials, nor to other agencies the heads of which are appointed by officials other than the mayor or by multi-member bodies. References in this chapter to other sections of the charter shall not be construed to affect the applicability of those sections to officials and agencies not subject to this chapter.

b. Except as otherwise provided by law, all functions, powers and duties assigned to each mayoral agency by the charter or other law shall be vested in the head of such agency. In exercising such powers and duties and the powers and duties specifically assigned to the agency head, such official shall exercise due diligence in ensuring their faithful execution, enforcement and performance. In addition to the powers and duties granted to them and their agencies by the charter or by other law, and in addition to such other functions as are assigned to them by the mayor, heads of mayoral agencies shall have the powers and duties listed in the remaining sections of



this chapter.

Sec. 386. Planning, advising, coordinating activities. a.  
In the areas under their jurisdiction, heads of mayoral agencies shall have the power and duty to (1) review, analyze, and evaluate the needs of the city; (2) prepare and submit to the mayor and other appropriate governmental authorities short term, intermediate, and long range plans and programs to meet the needs of the city; (3) develop, implement, and maintain systems to collect, store, and disseminate data; and (4) conduct research and studies to aid in planning and developing policies and programs.

b. Heads of mayoral agencies shall advise and assist the mayor, other elected officials and bodies of elected officials in regard to matters under the jurisdiction of their agencies.

c. To the maximum extent feasible, heads of mayoral agencies shall coordinate the activities of their agencies with those of other city, state, and federal agencies and other organizations and institutions on matters within their jurisdiction by such means as the mayor may require and, when not inconsistent with mayoral directives, by such means as the agency head may deem appropriate, including by establishing and participating in coordinating committees.

d. Heads of mayoral agencies shall cooperate with the board of elections and the coordinator of voter assistance to encourage voter registration and voting by all residents of the city of New York eligible to vote, and shall prepare annually, in accordance

with rules and guidelines of the coordinator of voter assistance, plans specifying the resources, opportunities, and locations the agency can provide for voter assistance activities.

Sec. 387. Program management. a. The heads of mayoral agencies shall supervise the execution and management of all programs and activities of their respective agencies and shall have cognizance and control of the government, administration, and discipline of their agencies.

b. Heads of mayoral agencies shall determine standards for, and monitor, evaluate, and exercise general supervision over, all services and facilities under their jurisdiction. To the extent necessary to carry out the provisions of the charter and other applicable law, and when not inconsistent with any other law, heads of mayoral agencies shall have the power and duty to visit and inspect providers of services under their jurisdiction.

Sec. 388. Financial management. a. The heads of mayoral agencies shall supervise the execution and management of all expenditures of their respective agencies.

b. They shall prepare and transmit budget estimates of the agency as prescribed by the charter, and other laws, and fulfill all other requirements of the budget preparation, adoption, modification, and administration process as set forth in the charter.

c. In accordance with the methods prescribed by the comptroller pursuant to subdivision f of section ninety-three of the charter and subject to the comptroller's power to suspend or

withdraw such authority in accordance with the provisions of that subdivision, heads of mayoral agencies shall prepare and audit vouchers before payment, prepare and audit payrolls, receive and inspect goods and forward bills to the comptroller for payment and record, report and account for such payments.

d. In accordance with the standards and procedures prescribed by the comptroller pursuant to subdivision k of section ninety-three, heads of mayoral agencies shall maintain a system of uniform accounting and reporting for their agencies.

Sec. 389. Internal controls, rule-making, contracting.

a. In accordance with the policies and procedures established by the mayor for this purpose, heads of mayoral agencies shall maintain an internal control environment and system which is intended to maximize the effectiveness and integrity of agency operations and to reduce the vulnerability of the agency to fraud, waste, abuse, error, conflict of interest, and corruption.

b. Except as otherwise provided by law and in accordance with the provisions of the charter and other law, heads of mayoral agencies shall have the power to adopt rules to carry out the powers and duties delegated to the agency head or the agency by or pursuant to federal, state or local law.

c. Heads of mayoral agencies may, subject to the requirements of the charter, other law, and rules promulgated pursuant to them, and within appropriations therefor, enter into contracts and make purchases to fulfill the duties assigned to them.

Sec. 390. Powers and duties specified in other charter

chapters. Heads of mayoral agencies shall, in addition to the duties assigned to them by this chapter, fulfill all other powers and duties assigned to them by the charter or other law.

CHAPTER [16] 17

## LAW DEPARTMENT

Sec. 391. Department; corporation counsel. There shall be a law department the head of which shall be the corporation counsel.

Sec. 392. Assistants. a. The corporation counsel may appoint a first assistant corporation counsel and such other assistants as may be necessary within the appropriation therefor.

b. The first assistant corporation counsel shall, during the absence or disability of the corporation counsel, possess all the powers and perform all the duties of the corporation counsel and in case of the death of the corporation counsel or of a vacancy in that office shall act as corporation counsel until the appointment and qualification of a corporation counsel.

c. Any assistant shall, in addition to the duties regularly assigned to him, possess such of the powers and perform such of the duties of the corporation counsel as he shall empower such assistant to exercise by written authority filed and remaining on record in the department.

Sec. 393. Offices. The corporation counsel may maintain an office in each of the boroughs or any of them.

Sec. 394. Powers and duties. a. Except as otherwise provided in this chapter or other law, the corporation counsel shall be attorney and counsel for the city and every agency thereof and



shall have charge and conduct of all the law business of the city and its agencies and in which the city is interested.

b. Except as otherwise provided in this chapter or other law, the corporation counsel shall have charge and conduct of the legal proceedings necessary in opening, widening, altering and closing streets and in acquiring real estate or interests therein for the city by condemnation proceedings, and the preparation of all leases, deeds, contracts, bonds, and other legal papers of the city, or of or connected with any agency or officer thereof, and the corporation counsel shall approve as to form all such deeds and bonds and, individually or by standard type of class, all contracts, leases and other legal papers; but the board of estimate may direct such changes to be made in the form of contracts and specifications as the interests of the city may in its judgment require.

c. Except as otherwise provided in this chapter or other law, the corporation counsel shall have the right to institute actions in law or equity and any proceedings provided by law in any court, local, state or national, to maintain, defend and establish the rights, interests, revenues, property, privileges, franchises or demands of the city or of any part or portion thereof, or of the people thereof, or to collect any money, debts, fines or penalties or to enforce the laws. He shall not be empowered to compromise, settle or adjust any rights, claims, demands, or causes of action in favor of or against the city, and he shall not permit, offer or confess judgment against the city, or accept any offer of judgment

in favor of the city without the previous approval of the comptroller, except that with regard to matters involving excise and non-property taxes, such previous written approval shall be obtained from the finance administrator; provided, however, that this inhibition shall not operate to limit or abridge the discretion of the corporation counsel in regard to the proper conduct of this trial of any action or proceeding or to deprive such corporation counsel of the powers and privileges ordinarily exercised in the courts of litigation by attorneys-at-law when acting for private clients. d. The corporation counsel shall annually compile and publish departmental rules and regulations as provided in section eleven hundred five.

Sec. 395. Legal service to agencies. The corporation counsel may assign an assistant or assistants to any agency. The head of each agency, within appropriations for such purpose, may employ staff counsel to assist in the legal affairs of the agency. No officer or agency, except as provided in this chapter or otherwise especially provided, shall have or employ any attorney or counsel, except where a judgment or order in an action or proceeding may affect him or them individually or may be followed by a motion to commit for contempt of court, in which case he or they may employ and be represented by attorney or counsel at his own or their own expense.

Sec. 396. Actions and proceedings for recovery of penalties. All actions and proceedings for the recovery of penalties for the violation of any law shall be brought in the name of the city of

New York and not in that of any agency, except where otherwise provided by law.

Sec. 397. Delegation of legal authority. a. The mayor may delegate to any agency, after consultation with the corporation counsel and the head of the agency, responsibility for the conduct of routine legal affairs of the agency subject to standards, policies, and guidelines of the corporation counsel, and consistent with city-wide controls and uniformity. The mayor may transfer or assign attorneys from the law department to the agency to assist in the conduct of such delegated functions. The corporation counsel shall monitor and evaluate on a regular and continuous basis the exercise of authority delegated pursuant to this section and the mayor, on recommendation of the corporation counsel, may suspend or withdraw any delegated authority whenever in his judgment the interests of the city justify such action.

b. Nothing contained in this section shall abrogate the authority of the corporation counsel as attorney and counsel for the city and every agency of the city.

CHAPTER 18  
POLICE DEPARTMENT

Sec. 431. Department; commissioner. a. There shall be a police department the head of which shall be the police commissioner who shall be appointed by the mayor and shall, unless sooner removed, hold office for a term of five years.

b. Whenever in the judgment of the mayor or the governor the public interests shall so require, the commissioner may be removed from office by either, and shall be ineligible for reappointment thereto.

c. Whenever a vacancy shall occur in the office of police commissioner, a police commissioner shall be appointed by the mayor within ten days thereafter.

Sec. 432. Deputies. The commissioner shall have the power to appoint and at pleasure remove seven deputies, one to be known as first deputy commissioner. During the absence or disability of the commissioner, the first deputy commissioner, or if he shall be absent or under disability, the deputy commissioner designated by the commissioner shall possess all the powers and perform all the duties of the commissioner except the power of making appointments and transfers.

[Sec. 433. Member of department; no other office. Any police commissioner or any member of the police force who shall accept any additional place of public trust or civil emolument except as a member of a community board, or who shall during his term of



office be nominated for any office elective by the people, except a member of the police force appointed, nominated or elected to a board of education outside of the city of New York, and shall not, within ten days succeeding same, decline the said nomination, shall be deemed thereby to have resigned his commission and to have vacated his office, and all votes cast at any election for any person holding the office of police commissioner, or within thirty days after he shall have resigned such office, shall be void. The foregoing provisions shall not apply to any member of the police force who, with the written authorization of the mayor, shall accept any additional place of public trust or civil emolument while on leave of absence without pay from the department.] .-

Sec. 434. Commissioner; powers and duties. a. The commissioner shall have cognizance and control of the government, administration, disposition and discipline of the department, and of the police force of the department.

b. The commissioner shall be the chief executive officer of the police force. He shall be chargeable with and responsible for the execution of all laws and the rules and regulations of the department.

Sec. 435. Department; duties. a. The police department and force shall have the power and it shall be their duty to preserve the public peace, prevent crime, detect and arrest offenders, suppress riots, mobs and insurrections, disperse unlawful or dangerous assemblages and assemblages which obstruct the free



passage of public streets, sidewalks, parks and places; protect the rights of persons and property, guard the public health, preserve order at elections and all public meetings and assemblages; subject to the provisions of law and the rules and regulations of the commissioner of traffic, regulate, direct, control and restrict the movement of vehicular and pedestrian traffic for the facilitation of traffic and the convenience of the public as well as the proper protection of human life and health; remove all nuisances in the public streets, parks and places; arrest all street mendicants and beggars; provide proper police attendance at fires; inspect and observe all places of public amusement, all places of business having excise or other licenses to carry on any business; enforce and prevent the violation of all laws and ordinances in force in the city; and for these purposes to arrest all persons guilty of violating any law or ordinance for the suppression or punishment of crimes or offenses.

b. Except as specifically provided herein, nothing contained in this section shall be deemed to limit, restrict, divest, transfer or supersede the powers or the jurisdiction of any agency as defined in section eleven hundred fifty of the charter.

c. Nothing contained in this charter shall be deemed to grant the department of traffic cognizance or control over the government, administration, disposition and discipline of the police department or police force.

Sec. 436. Powers over certain trades. The commissioner shall

possess powers of general supervision and inspection over all licensed or unlicensed pawnbrokers, vendors, junkshop keepers, junk boatmen, cartmen, dealers in second-hand merchandise and auctioneers within the city; and in connection with the performance of any police duties he shall have power to examine such persons, their clerks and employees and their books, business premises, and any articles of merchandise in their possession. A refusal or neglect to comply in any respect with the provisions of this section on the part of any pawnbroker, vendor, junkshop keeper, junk boatman, cartman, dealer in second-hand merchandise or auctioneer, or any clerk or employee of any thereof shall be triable by a judge of the criminal court and punishable by not more than thirty days' imprisonment, or by a fine of not more than fifty dollars, or both.

Sec. 437. Detail to attend court. The commissioner is empowered to cause some intelligent and experienced person connected with the department to attend any courts in the city in cases where there is need of assistance, who shall, to such extent as shall be permitted by the rules of the court, aid in proceedings pending in such courts.

Sec. 438. Maintenance and operation of telegraph and telephone lines, etc. The commissioner shall have power to erect, operate, supply and maintain, subject to the general laws of the state, all such lines of telegraph and telephones and other means of communication as for the purposes and business of the police the commissioner shall deem necessary. The commissioner may provide

all instruments, fixtures, property and materials for the purpose above mentioned and control the same.

Sec. 440. Civilian complaints against members of the police department.

(a) Policy. It is hereby declared to be the public policy of the city of New York in order to preserve the independence and integrity of police service, that civilian complaints against members of the police department of the city of New York shall be reviewed fairly and impartially by the review board established in this section and shall be investigated and dealt with fully and fairly by the appropriate officials regularly charged with the governance and discipline of the police department without interference by any person or group of persons not regularly in police service.

b) Definitions. As used in this section:

1. The term "mayor" means the mayor of the city of New York or any official acting on his behalf or in his place and stead.

2. The term "commissioner" means the police commissioner of the city of New York or any official acting on his behalf or in his place and stead.

3. The term "police department" means the police department of the city of New York.

4. The term "civilian" means any person who is not a member or full-time employee of the police department.

(c) Review of civilian complaints. There shall continue to be within the police department a review board, with the power to

receive, to investigate, to hear and to recommend action upon civilian complaints against members of the police department. The board shall consist of twelve members, of whom six shall be members of the public selected so that one resident from each of the five boroughs of the city and one citywide representative are members. The public representatives shall be appointed by the mayor for terms of two years with advice and consent of the council in the same manner as is provided in section forty-six of this charter. Six members shall be appointed by the commissioner for terms of two years. Each member appointed by the commissioner must have been, for a period of at least one year prior to his appointment to such board, a regularly appointed, full-time member or full-time administrative employee of the police department. Any such member shall be a member of the board only for such time as he or she is so employed. In the event of a vacancy on the board during the term of office of a member by reason of removal, death, resignation, or otherwise, a successor shall be chosen in the same manner as was the member whose position became vacant. A member appointed to fill a vacancy shall serve for the balance of the unexpired term. Neither the mayor, the commissioner, nor any other administrator or officer of the city of New York shall have power to authorize any person, agency, board or group to receive, to investigate, to hear, or to require or recommend action upon civilian complaints against members of the police department except as provided in this section, provided that nothing herein shall limit or impair the



authority of the commissioner to discipline members of the force pursuant to law.

(d) Rules of procedure; staffing. 1. The board shall establish rules of procedure, which may provide for the establishment of panels of the board of not less than three members each, which shall consist of at least one public representative to act on behalf of the board. No panel shall consist entirely of public representatives. Such panels may recommend action on civilian complaints against members of the police department.

2. The commissioner shall assign personnel of the police department to assist the board and conduct investigations on its behalf.

(e) Attendance by police officers. No member of the police department or other person shall be disciplined or otherwise penalized for his failure to appear before or respond to the inquiries of any person, agency, board or group appointed by the mayor, the commissioner, or any other administrator or officer of the city of New York to receive, to investigate, to hear or to require or recommend action upon civilian complaints against members of the police department, unless such person, agency, board or group shall be duly appointed in accordance with the provisions of this section.

(f) Prosecution; right to hearing. Notwithstanding anything herein contained to the contrary, this section shall not be construed to prevent investigation or prosecution of members of the police department for violations of law by a duly constituted



court having jurisdiction, a grand jury, district attorney or other law enforcement agency; nor shall this section be construed to permit a member of the police department to be fined, reprimanded, removed, suspended or dismissed, except upon written charges, after such charges have been examined, heard and investigated by the commissioner, one of his deputies or the assistant to the commissioner.

(g) Separability. The invalidity of any provision or provisions of this section shall not affect the validity of the remaining provisions thereof, but such remaining provisions shall continue in full force and effect.

CHAPTER 19  
FIRE DEPARTMENT

Sec. 481. Department; commissioner. There shall be a fire department the head of which shall be the commissioner.

Sec. 482. Chief may be designated as commissioner. The mayor may designate the chief of the fire department to serve as commissioner, and in such case he shall exercise the powers and duties of commissioner and shall continue to exercise his powers and duties as chief and shall receive the salary of the commissioner. While serving as commissioner the chief shall forfeit none of his pension rights and privileges as chief or his civil service status, and such service and the time during which he so serves shall be part of his time and service as chief. Such designation as commissioner shall be in writing filed in the office of the department and in the office of the mayor.

Sec. 483. Deputies. The commissioner may appoint three deputies, one of whom may perform all the duties and exercise all of the powers of the commissioner except appointment or promotion, detail or dismissal of any member of the uniformed force when thereunto authorized by instrument in writing to be filed in the offices of the mayor and the comptroller.

Sec. 484. Designation of officers to act. The commissioner may designate a clerk or chief of a bureau, who shall have power, when thereunto authorized by the commissioner by instrument in writing to be filed in the offices of the mayor and comptroller, to sign warrants and perform such other duties incidental

thereto as may be required during the absence of the commissioner, and for a period of time to be designated in the instrument.

Sec. 485. Seal. The commissioner may adopt a seal for the department and direct its use.

Sec. 486. Treasurer. The commissioner shall be the treasurer of the department and shall file in the office of the comptroller a bond for the faithful performance of his duties as such treasurer.

Sec. 487. Powers. a. The commissioner shall have sole and exclusive power and perform all duties for the government, discipline, management, maintenance and direction of the fire department and the premises and property in the custody thereof, however, the commissioner shall provide written notice with supporting documentation at least thirty days prior to the permanent closing of any firehouse or the permanent removal or relocation of any fire fighting unit to the council members, community boards and borough presidents whose districts are served by such facility or unit. For purposes of this section, the term "permanent" shall mean a time period in excess of six months.

b. The department shall have sole and exclusive power and authority to extinguish fires at any place within the jurisdiction of the city and shall have power and authority to extinguish fires upon any vessel in the port of New York or upon any dock, wharf, pier, warehouse or other structure bordering

upon or adjacent to such port.

c. The commissioner shall have power to cause any vessel moored to or anchored near any dock or pier in the city to be removed to and secured at such place in the harbor as shall be designated by the commissioner, provided that such vessel shall be on fire or in danger of catching fire or may be, by reason of its condition or the nature of its cargo, a fire menace to shipping, to property or to the waterfront of the city.

d. The commissioner shall have sole and exclusive jurisdiction over the approval of the installation of all containers for combustibles, chemicals, explosives, inflammables or other dangerous substances, articles, compounds or mixtures, except storage tanks and auxiliary storage tanks for oil-burning equipment and except where the location of the container may affect the structural condition of the building, in which case the commissioner shall not give his approval without the approval of the commissioner of buildings. The commissioner shall certify his approval of all installations of containers in buildings except storage tanks and auxiliary storage tanks for oil-burning equipment to the commissioner of buildings.

e. The commissioner shall have the sole and exclusive power from time to time to designate and fix the location of all fire alarm telegraph, signal and alarm stations in the city, and shall have access to and control of the same for the purpose of the department.

Sec. 488. Enforcement of fire laws. The commissioner shall



have the power and it shall be his duty to enforce all laws and the rules and regulations of the board of standards and appeals in respect to:

1. The manufacture, storage, sale, transportation or use of combustibles, chemicals, explosives, inflammable or other dangerous substances, articles, compounds or mixtures.

2. The investigation of the cause, circumstances and origin of fires and the suppression of arson.

3. The prevention of fires or danger to life or property therefrom, excluding provisions relating to structural conditions and excluding provisions relating to the installation of oil-burning equipment and all appurtenances thereof. The powers conferred by this section shall not extend to the enforcement of any provision of the health code or the regulations of the board of health, or of any provision of the building code relating to the construction or alteration of buildings or the installation of service equipment, except as otherwise provided therein, or interfere in any manner with the powers and duties of the board of health or the chairman of the board of health or of the department of buildings or of the commissioner of buildings.

Sec. 489. Regulation of combustibles, etc. The commissioner may make and enforce rules and regulations for the manufacture, storage, sale, transportation or use of combustibles, chemicals, explosives, inflammables or other dangerous substances, articles, compounds or mixtures.

Sec. 490. Powers of inspection of the commissioner. a. The



commissioner is empowered to:

(1) Cause any building, structure, tunnel, enclosure, vessel, place or premises to be inspected for fire hazards by any officer or employee of the department designated for such purpose.

(2) Inspect and test any automatic or other fire alarm system or fire extinguishing equipment.

b. Whenever in any investigation or inspection carried on by the department a condition is found which in the opinion of the commissioner should be referred to any other department, he shall promptly make such reference in writing.

Sec. 491. Orders of the commissioner; enforcement. a. The commissioner shall have the power and it shall be his duty:

(1) To order in writing the remedying of any condition in violation of any rule or regulation or any provision of law which he is empowered to enforce.

(2) To cause any order of the commissioner which is not complied with within the time fixed in the order for such compliance to be enforced and to take proceedings for the enforcement thereof as may be provided by law.

b. Every order, requirement, decision or determination of the commissioner shall be in writing. The commissioner shall not vary from or take any proceeding or issue any order contrary to the labor law, the multiple dwelling law, the building code or any other provision of law or any rule or decision of the board of standards and appeals.

Sec. 492. Right of entry of officers of the department. The

commissioner and his deputies and such other officers or employees of the department as are authorized by the commissioner may without fee or hindrance enter and inspect all vessels, premises, grounds, structures, buildings and every part thereof and all underground passages of every sort in the city or in the port of New York for compliance with the provisions of law or rules and regulations enforced by the department. Any refusal to permit such entry or inspection shall be triable by a judge of the New York city criminal court and punishable by not more than thirty days' imprisonment, or by a fine of not more than fifty dollars, or both.

[Sec. 493. Member of department; no other office. Any commissioner or any member of the uniformed force of the department who shall accept any additional place of public trust or civil emolument except as a member of a community board or who shall during his term of office be nominated for any office elective by the people, except a member of the force appointed, nominated or elected to a board of education outside of the city of New York, to a party position as defined within the New York state election law or to a board of fire commissioners established in accordance with section 3-308 of the village law or section one hundred seventy-four of the town law, and shall not, within ten days succeeding the same, decline the said nomination, shall be deemed thereby to have resigned his commission and to have vacated his office. The provisions of this section shall apply as long as it does not interfere with his/her

performance as a member of the department.

The foregoing provisions shall not apply to any member of the uniformed force of the department who, with the written authorization of the mayor, shall accept any additional place of public trust or civil emolument while such member shall be on leave of absence without pay from the department.]

Sec. 494. Duties of chief; restriction. Notwithstanding any inconsistent provision of any general, special or local law, or rule or regulation, a chief of the fire department shall not serve in any other capacity to the department during his term of office of chief. Any person violating the provisions of this section shall be deemed to have vacated the office of chief so held.

## CHAPTER 20

## EDUCATION

Sec. 520. Salaries of members of the board of education 1. Members of the board of education, other than the president, shall be compensated at the rate of one hundred sixty dollars and the president of the board at the rate of one hundred seventy-five dollars per calendar day when performing the work of the board, provided, however, that in any fiscal year a member or president shall not be compensated for more than two hundred ten calendar days for all work performed by such member or president during the fiscal year.

2. Members of the board of education shall, within the funds provided therefor in the budget of the board of education, be entitled to use an automobile limited to the performance of their public duties provided, that the cost of such automobile shall not exceed that of automobiles provided to city commissioners.

Sec. 521. Property under board of education; care and control; suits in regard thereto. a. The title to all property, real and personal, heretofore or hereafter acquired for school or educational purposes, and also the title to all property, real and personal, purchased for school or educational purposes with any school moneys, whether derived from the issue of bonds or raised by taxation, shall be vested in the city, but under the care and control of the board of education for the purposes of public education, recreation and other public uses.

b. Suits in relation to such property shall be brought in the



name of the board of education.

c. The city shall have power to take and hold any property, real or personal, devised or bequeathed or transferred to it for the purposes of education in said city; but such property shall be under the care and control of the board of education for the purposes of public education, recreation and other public uses in the city.

d. Not later than the twenty sixth day of April, the board of education shall submit to the board of estimate and the council an itemized statement, covering those portions of the city's capital plant, as defined in section eleven hundred ten-a, which have been committed to the care and control of the board of education or officers or employees thereof, by project type and, within project type, by personal services and other-than-personal services, of the amounts appropriated for maintenance of such portions of the capital plant in the previous and current fiscal years as originally adopted and as modified through the first nine months of the current fiscal year, and of the amounts actually expended for such maintenance in the previous fiscal year and through the first nine months of the current fiscal year and the amounts estimated to be expended for such purpose during the balance of the current fiscal year; and, an explanation of the substantive differences, if any, between the amounts actually expended for such maintenance in the previous fiscal year or projected to be expended for such purpose in the current fiscal year and the amounts originally appropriated for such purpose for



such years.

Sec. 522. Reports of board. The board of education shall on or before the thirtieth day of November in each year make and transmit to the mayor a report in writing, for the year ending on the thirty-first day of July next preceding, stating the whole number of schools under its jurisdiction during the said year; the number of teachers; the total number of pupils on register, and the average attendance at each school; the number of high schools and training schools for teachers, with the number of teachers and the attendance of pupils at each; the corporate schools or societies from which reports have been made to the board of education, the length of time such schools have been kept open, and the number of teachers and of pupils taught in each such school and the total amount of money expended for the purposes of public education in the city during the preceding fiscal year. The board of education shall also make in said reports such suggestions and recommendations relative to the public schools of the city as it may deem proper.

Sec. 523. Removal by mayor after hearing. Any member of the board of education or of the local school board may be removed by the mayor on proof of official misconduct in office or of negligence in official duties or of conduct in any manner connected with his official duties, or otherwise, which tends to discredit his office or the school system, or for mental or physical inability to perform his duties; but before removal he shall receive notice in writing of the charges and copy thereof,

and shall be entitled to a hearing on notice before the mayor and to the assistance of counsel at said hearing.

[Sec. 524. School officers not to be interested in contracts; removal. The board of education shall have the power to remove from office any school officer who shall have been directly or indirectly interested in the furnishing of any supplies or materials, or in the doing of any work or labor, or in the sale or leasing of any real estate, or in any proposal, agreement or contract for any of these purposes, in any case in which the price or consideration is to be paid, in whole or in part, directly or indirectly, out of any school moneys, or who shall have received from any source whatever any commission or compensation in connection with any of the matters aforesaid; and any school officer who shall violate the preceding provisions of this section shall be deemed guilty of a misdemeanor, and shall also forfeit his office and be ineligible to any office or employment under the board of education or under the city or any agency. The provisions of this section shall not apply to authors of school books used in any of the public schools because of any interest they may have as authors in such books.

Sec. 525. Contributions to political funds, etc., prohibited. Neither the city superintendent of schools, nor any associate or assistant superintendent of schools, nor any member of the board of examiners, nor any member of the supervising or teaching staff of the department of education of the city shall be permitted to contribute any moneys, directly or indirectly, to any fund

intended to affect legislation increasing their emoluments, but nothing herein shall be construed to deny any right afforded by section eleven hundred twenty-four.]

Sec. 526. Powers of investigation. The board of education may investigate, of its own motion or otherwise either in the board or by a committee of its own body, any subject of which it has cognizance or over which it has legal control, including the conduct of any of its members or employees or those of any local school board; and for the purpose of such investigation, such board or its president, or committee or its chairman, shall have and may exercise all the powers which a board of education has or may exercise in the case of a trial under the education law or the civil practice law and rules. Any action or determination of a committee appointed under the provisions of this section shall be subject to approval or reversal by the board, which may also modify the determination of the committee in such way as the board shall deem proper and just, and the judgment of the board thereon shall be final.

Sec. 527. Changes in state law. This chapter shall not prevent the city from exercising any power now or hereafter conferred by law.

## CHAPTER 21

## DEPARTMENT OF PARKS AND RECREATION

Sec. 531. Department; commissioner. There shall be a department of parks and recreation the head of which shall be the commissioner of parks and recreation.

Sec. 532. Deputies. The commissioner may appoint three deputies.

Sec. 533. Powers and duties of the commissioner. Except with respect to the functions of the board of education and except as otherwise provided by law, the commissioner shall have the power and it shall be his duty:

a. Parks

1. to manage and care for all parks, squares and public places, the sidewalks immediately adjoining the same and all playgrounds, playground fixtures and other recreation properties, except those within the jurisdiction of the board of education or other agencies, but such jurisdiction shall not extend to or include the buildings which are now or hereafter may be erected in parks, squares or public places for governmental purposes other than those of the department;

2. to prepare plans for the establishment and improvement of a park system for the city with due regard to proper connections with the systems of federal, state and county parks and recreation areas in the city and the counties adjacent to the city, and execute the same when authorized in accordance with the



provisions of this charter;

3. to maintain the beauty and utility of all parks, squares, public places, playgrounds and other recreational properties, except those within the jurisdiction of the board of education and to institute and execute all measures for the improvement thereof for ornamental purposes and for the beneficial uses of the people of the city;

4. to plant and maintain trees and to construct, erect and establish seats, drinking fountains, statues and works of art in any place within his jurisdiction, and to determine when and where lamps or lighting appliances shall be placed and lighted therein and the design thereof;

5. to authorize and regulate the use of and the projections on and determine the line or curb and the surface construction of all streets and avenues lying within any park, square or public place or within a distance of three hundred fifty feet from the outer boundaries thereof;

6. to maintain buildings and structures now or hereafter erected or established in any park, square, public place or playground under his jurisdiction and to carry out and perform existing contracts with corporations or institutions for the construction and maintenance of such buildings and structures;

7. to provide the necessary instruments, furniture and equipment for the several buildings and structures within his jurisdiction and to develop and improve the same subject to the provisions of law and existing contracts;



8. to have the management, direction and control of all real or personal property granted, devised, bequeathed or conveyed to the city for the extension, improvement or ornamentation of the parks, squares or public places in the city or for the establishment or maintenance, within the limits of any such park, square or public place, of playgrounds, other recreational properties and other facilities within the department's jurisdiction and upon such trusts and conditions as may be prescribed by the grantors or donors thereof and accepted by the commissioner, or proposed by the commissioner and accepted by the grantors or donors thereof;

9. to establish and enforce rules and regulations for the use, government and protection of public parks and of all property under the charge or control of the department, which rules and regulations so far as practicable shall be uniform in all boroughs and shall have the force and effect of law. Any violation of such rules or regulations shall be a misdemeanor triable by a judge of the criminal court of the city of New York and punishable by not more than ninety days imprisonment or by a fine of not more than one thousand dollars or by both;

10. to plan, conduct, supervise, coordinate and promote conservation, environmental, and nature education programs and research and demonstration projects relating thereto and to plan, acquire, design, construct, improve, alter, maintain and manage areas and facilities for conservation and the preservation of natural beauty; and subject to the approval of the mayor,

undertake to enter into arrangements with other city, state or federal agencies and recommend to the mayor such arrangements with private, voluntary or commercial agencies, to be entered into subject to the provisions of law, for the performance of functions relating to conservation and the preservation of natural beauty;

11. to plan, plant and maintain trees and other plantings and to plan, acquire, design, construct, improve, alter, repair and maintain works of art, as same are defined in subdivision a of section eight hundred fifty-four of the New York city charter, on or over the streets, avenues, squares, parks, docks, piers or other public places belonging to the city, except as otherwise provided by law; and, subject to the approval of the mayor, undertake to enter into arrangements with other agencies of the city, state and federal government and recommend to the mayor such arrangements with private, voluntary or commercial agencies, to be entered into subject to the provisions of law, for the performance of functions relating to neighborhood beautification.

b. Recreation

1. to plan, acquire, construct, improve and manage facilities for the recreation of the public;

2. to plan, develop, conduct and supervise recreation programs for the public including research and demonstration projects relating thereto;

3. to review and coordinate recreation activities and programs and facilities conducted by agencies of the city and the budget

estimates submitted by such other agencies for such activities and make such recommendations to the mayor with respect to them as may be appropriate; and

4. to undertake, subject to the approval of the mayor, and to enter into arrangements with other agencies of the city, state or federal government and to recommend to the mayor such arrangements with private, voluntary or commercial agencies to be entered into, subject to the provisions of law, for the performance of any recreation functions conferred upon the department by this chapter or otherwise.

Sec. 534. Landmarks preservation commission.

1. There shall be in the department a landmarks preservation commission consisting of eleven members. The membership of such commission shall include at least three architects, one historian qualified in the field, one city planner or landscape architect, and one realtor. The membership shall include at least one resident of each of the five boroughs.

2. (a) The members of the commission shall be appointed by the mayor for terms of three years, provided that of those members first taking office, three shall be appointed for one year, four for two years, and four for three years. Each member shall serve until the appointment and qualification of his successor. The terms of members first taking office shall commence on the date of their appointment.

(b) Before making any appointment of a member who is required to be an architect, historian or city planner or landscape

architect, the mayor may consult with the fine arts federation of New York and any other similar organization. In the event of a vacancy occurring during the term of a member of the commission, the mayor shall make an interim appointment to fill out the unexpired term of such member, and where such member is herein required to have specified qualifications, such vacancy shall be filled by interim appointment of a person having such qualifications, in the manner herein prescribed.

3. The members of the commission other than the chairman, shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties.

4. The mayor shall designate one of the members of the commission to be chairman and one to be vice-chairman. The chairman and vice-chairman shall serve as such, until a successor or successors are designated. The commission shall appoint an executive director who shall devote full time to his duties. The commission shall submit an annual report on its activities to the mayor.

5. The commission may employ technical experts and such other employees as may be required to perform its duties, within the appropriations therefor.

6. The commission shall have such powers and duties as shall be prescribed by law with respect to the establishment and regulation of landmarks, portions of landmarks, landmark sites, interior landmarks, scenic landmarks and historic districts.



## CHAPTER 22

## DEPARTMENT OF HEALTH

Sec. 551. Department; commissioner. a. There shall be a department of health, the head of which shall be the commissioner of health who shall be appointed by the mayor.

b. The commissioner shall:

(1) be a doctor of medicine and a holder of a degree of master of public health or a degree of master of business administration with concentration in the health field or a degree of master of public administration with concentration in the health field or the equivalent of any one of the specified foregoing degrees received from a college or university and

(2) have had at least eight years' experience either in public health administration or in college or university public health teaching or in both.

Sec. 552. Deputy commissioners. The commissioner may appoint four deputy commissioners, one of whom shall have the same qualifications as the commissioner and one of whom shall be designated as the deputy commissioner for addiction programs and who shall be responsible for the drug treatment and drug prevention programs authorized by law.

Sec. 553. Board of health. a. There shall be in the department a board of health, the chairman of which shall be the commissioner. In addition to the chairman, the board shall consist of four members, two of whom shall be doctors of medicine



who shall each have had not less than ten years experience in any or all of the following: clinical medicine, public health administration or college or university public health teaching. The other two members need not be physicians.

b. The four members other than the chairman shall serve without compensation and shall be appointed by the mayor, each for a term of eight years, commencing at the expiration of the terms of the present incumbents. In case of a vacancy the mayor shall appoint a member to serve for the unexpired term.

c. The commissioner shall designate employees of the department as may be necessary to the service of the board including an employee designated by him to serve as the secretary of the board.

Sec. 554. Removal of board members. A member of the board of health other than the chairman may be removed by the mayor on proof of official misconduct or of negligence in official duties or of conduct in any manner connected with his official duties which tends to discredit his office, or of mental or physical inability to perform his duties; provided that prior to removal he shall receive a copy of the charges and shall be entitled to a hearing before the mayor and to the assistance of counsel at such hearing.

Sec. 555. Powers and duties of the commissioner. a. The commissioner shall have all the powers and duties vested in him or in the department by this chapter or otherwise, except those vested by law in the board of health and the chief medical

examiner. In the performance of his functions, the commissioner shall have, in addition to such others as may be conferred upon him from time to time, the power and duty to:

[(1) Review, analyze and evaluate the needs of the city with respect to the matters subject to the jurisdiction of the department.]

[(2)] (1) Prepare and submit to appropriate governmental authorities short term, intermediate and long range plans and programs designed to meet the said needs of the city, including the needs for construction and operation of medical and health care facilities, and establish priorities among them, except that the commissioner may not construct or operate a new medical or health care facility until the health systems agency having jurisdiction over the institution, as recognized by the state health planning council, has received, in the case of private institutions, a copy of the application filed with the commissioner, or in the case of institutions of the city of New York, information in such form and detail as the health systems agency shall require, and it shall have given the commissioner a written decision expressing its approval or disapproval. The commissioner shall not be bound by this decision but he shall not approve any construction, addition or modification contrary to the health systems agency without first holding a public hearing. In reaching decisions pursuant to this paragraph, the commissioner and the health systems agency shall consider:

(a) The public need for the existence of the new institution

or the construction, addition or modification of an existing institution at the time and place and under the circumstances proposed;

(b) The character, competence and standing in the community of the owners and licensees, in the case of private institutions;

(c) The financial resources of the institution and its sources of future revenues;

(d) The fitness and adequacy of the premises, and equipment, personnel and standards of care to be used in the operation of the proposed institution;

(e) Any decision of the local community board, on the institution in the community; and

(f) Such other matters as each of them considers pertinent.

[(3) Prepare and transmit budget estimates of the department as prescribed by law.

(4) Supervise the management of all programs, activities and expenditures of the department.

(5) To the extent to which the organization of the department is not prescribed by law and in accordance with such standards and policies as may be established by the mayor, to organize the department into bureaus, divisions, boards or offices and make assignments of powers and duties among them and from time to time change such organization and assignments.]

b. In the exercise of the commissioner's functions, powers and duties the commissioner may:

[(1) With approval of the board of estimate, enter into

contracts from time to time with any university, medical school, public or voluntary hospital or not-for-profit corporation, agency or association established to provide health services, organized pursuant to the laws of the state of New York, whereby such university, medical school, public or voluntary hospital or not-for-profit corporation, agency or association established to provide health services, shall agree to provide and supervise, under the general supervision of the commissioner, all or part of the professional and related staff used in the operation of any institutional or other health services under the jurisdiction of the department. The personnel so provided by such university, medical school, public or voluntary hospital or not-for-profit corporation, agency or association shall not be deemed to be employees of the city of New York.]

[(2)] (1) Compel the attendance of witnesses in any matter or proceeding before the commissioner.

[(3)] (2) Except as otherwise provided by law, assess any penalty prescribed for a violation of or a failure to comply with any provision of this chapter or any lawful notice, order or regulation pursuant thereto, not exceeding one thousand dollars, which penalty may be assessed after a hearing or an opportunity to be heard.[]; and

(4) Except as otherwise provided by law, delegate the functions, powers or duties vested in him by this chapter to officers and employees of the department.]

Sec. 556. Functions, powers and duties of the department.



Except as otherwise provided by law, the department shall have jurisdiction to regulate all matters affecting health in the city of New York and to perform all those functions and operations performed by the city that relate to the health of the people of the city, including but not limited to the following:

(a) enforce all provisions of law applicable in the area under the jurisdiction of the department for the preservation of human life, for the care, promotion and protection of health and relative to the necessary health supervision of the purity and wholesomeness of the water supply and the sources thereof; and shall maintain an office in each borough and shall maintain, furnish and operate in each borough office health centers and health stations or other facilities which may be required from time to time for the preservation of health or the care of the sick;

(b) exercise its functions, powers and duties in the area extending over the city, and over the waters adjacent thereto, within the jurisdiction of the city and within the quarantine limits as established by law;

(c) receive and expend funds made available for public health purposes pursuant to law;

(d) supervise and control the registration of births, fetal deaths and deaths;

(e) engage in or promote health research for the purpose of improving the quality of medical and health care; in conducting such research, the department shall have the authority to conduct

medical audits, to receive reports on forms prepared or prescribed by the department; such information when received by the department shall be kept confidential and used solely for the purpose of medical or scientific research or the improvement of the quality of medical care;

(f) supervise the reporting and control of communicable and chronic diseases and conditions hazardous to life and health; exercise control over and supervise the abatement of nuisances affecting or likely to affect the public health;

(g) produce, standardize and distribute certain diagnostic, preventive and therapeutic products and conduct laboratory examinations for the diagnosis, prevention and control of disease;

(h) promote or provide education in the prevention and control of disease;

(i) promote or provide diagnostic and therapeutic services for maternity and child health, family planning, communicable disease, medical rehabilitation, narcotics addiction and other diseases and conditions affecting public health;

(j) promote or provide medical and health services for school children and the ambulant sick and needy persons of the city;

(k) promote or provide medical and health services for the inmates of prisons maintained and operated by the city;

(l) maintain and operate [hospitals, institutions,] public health centers and clinics as shall be established in the department;

(m) prior to the sale, closing, abandonment of a city hospital or transfer of a city hospital to any other hospital or facility, hold a public hearing with reference to such proposed sale, closing, abandonment or transfer; publish notice of such public hearing in The City Record and in such daily newspaper or newspapers published in the city of New York as shall be selected by the commissioner, such publication to take place not less than ten days nor more than thirty days prior to the date fixed for the hearing; and may adjourn such hearing from time to time, if necessary, in order to allow persons interested to attend or express their views;

(n) except as otherwise provided by law, analyze [, evaluate, supervise and regulate] and monitor hospitals, clinics, nursing homes, and homes for the aged, and analyze, evaluate, supervise and regulate clinical laboratories, blood banks, [institutions] and [other] related facilities providing medical and health services and services ancillary thereto;

(o) supervise and regulate the public health aspects of water supply and sewage disposal and water pollution;

(p) supervise and regulate the public health aspects of the production, processing and distribution of milk, cream and milk products;

(q) except as otherwise provided by law, supervise and regulate the public health aspects of the food and drug supply of the city and other businesses and activities affecting public health in the city;

(r) supervise and regulate the removal, transportation and disposal of human remains;

(s) supervise and regulate the public health aspects of ionizing radiation, the handling and disposal of radioactive wastes, and the activities within the city affecting radioactive materials, excluding special nuclear materials in quantities sufficient to form a critical mass; and

(t) develop, promote, provide, coordinate and evaluate addiction programs for the prevention of addiction and the treatment and rehabilitation of persons addicted to narcotics and other dangerous drugs, including but not limited to the following functions and operations:

1. participate in cooperative efforts of federal, state, regional and city agencies and programs dealing with the problems of addiction to narcotics and other dangerous drugs;

2. evaluate present and proposed research designs, demonstration projects, treatment and service programs, and other requests related to the prevention of addiction and the care, treatment and rehabilitation of drug addicts in the city, before public funds are made available therefor;

3. promote or provide research and demonstration projects designed to obtain information relating to the prevention of addiction and the care, treatment and rehabilitation of drug addicts by public or voluntary private agencies supported in whole or in part by city funds;

4. promote or provide an educational and prevention program



to acquaint the public with the problems of addiction resulting from narcotics and other dangerous drugs;

5. promote or provide treatment modalities for persons addicted to narcotics and other dangerous drugs including but not limited to drug free programs and chemotherapeutic programs, a school based drug prevention program and drug prevention programs and facilities with maintenance of a balance;

6. annually report to the city council by March first, as of December thirty-first of the preceding year, on all modalities promoted or provided during the preceding year and proposed to be promoted or provided during the ensuing year with particular reference to the balance between all modalities and the relative effectiveness thereof; and

7. promote or provide training programs for persons in public or voluntary private agencies and institutions or other facilities engaged in the prevention, treatment and rehabilitation of persons addicted to narcotics and other dangerous drugs.

Sec. 557. Chief medical examiner. (a) There shall be in the department an independent office of chief medical examiner, the head of which shall be the chief medical examiner, who shall be appointed by the mayor from the classified civil service and be a doctor of medicine and a skilled pathologist and microscopist. The mayor may remove the chief medical examiner upon filing in the office of the personnel director and serving upon the chief medical examiner his reasons therefor and allowing such officer

an opportunity of making a public explanation.

(b) The commissioner with respect to the office of chief medical examiner shall exercise the powers and duties set forth in paragraphs one, two, three, and four of subdivision a of section five hundred fifty-five of this chapter, but he shall not interfere with the performance by the chief medical examiner or his office of the powers and duties prescribed by the provisions of this section or any other law.

(c) The chief medical examiner may appoint and remove such deputy chief medical examiners, associate medical examiners, assistant medical examiners, junior medical examiners, medical investigators, lay medical investigators, scientific experts and other officers and employees as may be provided for in the budget. The deputy chief medical examiners, associate medical examiners, assistant medical examiners and junior medical examiners shall possess the same basic qualifications as the chief medical examiner. The medical investigators shall be physicians duly licensed to practice medicine in the state of New York and shall possess such additional qualifications as may be required by the department of personnel.

(d) The office shall be kept open every day in the year, including Sundays and legal holidays, with a clerk in attendance at all times during the day and night.

(e) The chief medical examiner and all deputy chief medical examiners, associate medical examiners, assistant medical examiners, junior medical examiners and medical investigators may

administer oaths and take affidavits, proofs and examinations as to any matter within the jurisdiction of the office.

(f) the chief medical examiner shall have such powers and duties as may be provided by law in respect to bodies of persons dying from criminal violence, by casualty, by suicide, suddenly when in apparent health, when unattended by a physician, in a correctional facility or in any suspicious or unusual manner or where an application is made pursuant to law for a permit to cremate the body of a person.

(g) The chief medical examiner shall keep full and complete records in such form as may be provided by law. He shall promptly deliver to the appropriate district attorney copies of all records relating to every death as to which there is, in the judgment of the medical examiner in charge, any indication of criminality. Such records shall not be open to public inspection.

Sec. 558. Health code. (a) The health code which is in force in the city on the date on which this chapter takes effect and all existing provisions of law fixing penalties for violations of the code and all regulations of the board of health on file with the city clerk on the date when this chapter takes effect shall continue to be binding and in force except as amended or repealed from time to time. Such code shall have the force and effect of law.

(b) The board of health from time to time may add to and alter, amend or repeal any part of the health code, and may

therein publish additional provisions for security of life and health in the city and confer additional powers on the department not inconsistent with the constitution, laws of this state or this charter, and may provide for the enforcement of the health code or any orders made by the commissioner or the board of health, by such fines, penalties, forfeitures and imprisonment as may be prescribed therein or otherwise by law.

(c) The board of health may embrace in the health code all matters and subjects to which the power and authority of the department extends. The board of health shall prescribe in the health code the persons who shall be required to keep a registry of birth, fetal deaths, and deaths occurring in the city and file certifications thereof with the department and the form and manner in which such registry shall be kept and certificates filed, and, it shall provide for the recording of births which have not been recorded in accordance with law, for the change or alteration of any birth, fetal death or death certificate upon proof satisfactory, to the commissioner, for the examination and issuance of transcripts of such certificates and for fees to be charged therefor.

(d) The board of health shall prescribe in the health code that the parent with legal custody or legal guardian of any child receiving day care services as authorized in such code shall have unlimited and on demand access to such child or ward. [Such board] The department of health shall make unannounced visits of such day care services if such board receives a complaint that,



if true, would indicate that children in such services are not receiving adequate or appropriate care. Such board shall also prescribe in such code that during the period for which day care services are authorized upon any premises, the [board] department shall whenever possible make at least one unannounced visit of every such premises annually.

(e) Any violation of the health code shall be treated and punished as a misdemeanor. The board of health or an administrative tribunal established by the board of health to enforce the provisions of the health code shall have the power to enforce its final decisions and orders imposing pecuniary penalties as if they were money judgments, without court proceedings, in the manner described herein. After four months from the issuance of such a final decision and order by such board or tribunal a copy of such decision and order shall be filed in the office of the clerk of any county within the city. In the event that the decision and order were issued as a result of the respondent being in default, a notice of default shall be mailed to such respondent at least seven days before such filing, and a copy of such notice and a receipt of mailing thereof shall be filed with the copy of such decision and order. Upon such filing, such county clerk shall enter and docket such decision and order, in the same manner and with the same effect as a money judgment. Upon such entry and docketing, such decision and order may be enforced as provided in article fifty-two of the civil practice law and rules. Such board or tribunal shall not

enter any final decision or order pursuant to the provisions of this subdivision unless the notice of violation shall have been served in the same manner as is prescribed for service of process by article three of the civil practice law and rules or article three of the business corporation law. Such board or tribunal may apply to a court of competent jurisdiction for enforcement of any other decision, order or subpoena issued by such board or tribunal. Nothing herein contained shall be construed to limit or abridge the board's or the department's right to pursue any other remedy prescribed by law. Pecuniary penalties for violations of the health code may be recovered in a civil action before any court in the city having jurisdiction of civil actions.

(f) No amendment or addition to the health code or repeal of any provision thereof adopted by the board of health subsequent to the effective date of this chapter shall become valid and effective until a copy of such amendment, addition or repeal is duly certified by the person serving as secretary of the board. [is filed with the city clerk. Upon such filing the amendment or addition shall be part of the health code and shall be published forthwith in the City Record by the city clerk.]

(g) The board of health may add, amend and repeal regulations in regard to any matter contained in the health code, and such regulations [when filed with the city clerk] shall have the same force and effect as a provision of the health code [and shall be published forthwith in the City Record.]

(h) No action shall abate, or right of action already accrued

be abolished, by reason of the expiration, repeal or amendment of any provision of the health code or regulations in regard thereto.

Sec. 559. Seal. The commissioner, with the concurrence of the board of health, may adopt a seal which [shall] may be used for the authentication of the orders and proceedings of the board and of the department and in commissioning the officers and agents of the department and otherwise as may be provided for by the commissioner or in the health code.

Sec. 560. Temporary hospitals during epidemic or imminent peril. The board of health, during the prevalence of an epidemic or in the presence of great and imminent peril to the public health and when in the board's judgment it is necessary to do so, may take possession of any buildings in the city for temporary hospitals and shall pay a just compensation for any private property so taken. Such temporary hospitals shall be under the control of the commissioner.

Sec. 561. Permits. The board of health in its discretion may grant, suspend or revoke permits for businesses or other matters in respect to any subject dealt with in the health code and regulated by the department and may prescribe reasonable fees for the issuance of said permits. Whenever the board of health in the health code authorizes the issuance, suspension or revocation of a permit by the commissioner, his action shall be subject to review by the board of health upon an appeal by the party aggrieved under such rules as the board may provide. Such rules

may provide in what cases an appeal may stay the action of the commissioner until final determination by the board of health, but notwithstanding any such rule the board of health shall have power to grant or refuse a stay in any particular case.

Sec. 562. Failure to observe order; penalty. Except in cases where it is otherwise provided by law, every violation, neglect or refusal by any person to comply with any order of the commissioner or the board of health shall be triable by a judge of the New York city criminal court and shall be treated and punished as a misdemeanor.

Sec. 563. Declaration of imminent peril. In the presence of great and imminent peril to the public health, the board of health, having first taken and filed among its records what it regards as sufficient proof to authorize a declaration of such peril, shall take such measures, and order the department to do such acts beyond those duly provided for the preservation of the public health, including the power to take possession of and occupy as a hospital any building or buildings in the city, as the board, in good faith may declare the public safety and health to demand, and the mayor shall in writing approve. No expenditure shall be incurred in the exercise of such extraordinary power, however, unless provision is made therefor in the budget or unless such expenditures are financed pursuant to sections one hundred twenty-four of this charter or section 29.00 of the local finance law. Such peril shall exist when and for such period of time as the board of health and mayor declare.



Sec. 564. Suits and service of papers. The department may sue and be sued in and by the proper name of "Department of Health of the City of New York", and service of all process in suits and proceedings against or affecting the department, or other papers, may be made upon the commissioner or official designated by him, and not otherwise; except that, according to usual practice in other suits, papers in suits to which the department is a party may be served on the corporation counsel or such assistant as may be assigned by him to the department.

Sec. 566. Right of entry of officers of department. The commissioner and such officers or employees of the department as are designated by him may, at reasonable times, and pursuant to a search warrant when required by law, without fee or hindrance enter, examine and inspect all vessels, premises, grounds, structures, buildings and every part thereof and all underground passages of every sort in the city for compliance with the provisions of law enforced by the department and its rules and regulations and may make plans, drawings and descriptions thereof, according to the regulations of the department. The owner or his agent or representative and the lessee or occupant of any such premises, grounds, structures, buildings and every part thereof and all underground passages of every sort in the city and every part thereof and every person having the care and management thereof, shall at all reasonable times, when required by any such officers or employees, give them free access thereto, and refusal so to do shall be triable by a judge of the New York

city criminal court and shall be treated and punished as a misdemeanor.

Sec. 567. Acceptance of private funds. No grant, gift, devise, legacy or bequest made to the city or to the department for work to be done within the jurisdiction of the department shall be accepted, and no work or research paid for from private sources shall be carried on under the jurisdiction of the department except with the approval of the commissioner.

Sec. 568. Creation of addiction programs advisory council. There shall be in the department an addiction programs advisory council to inform and advise the mayor, city council and commissioner on all matters relating to drug addiction problems and the management, development and evaluation of addiction programs, subject to the following:

(a) such council shall consist of eighteen members, nine of whom shall be appointed by the mayor and nine of whom shall be appointed by the city council; in making their appointments each shall appoint, respectively, at least one member with expertise in the treatment modalities of chemotherapy, drug-free therapy, and prevention, and three persons or consumers knowledgeable in addiction services, who are non-providers in the field;

(b) the advisory council shall select one of its members to be designated as chairperson and each member shall serve without compensation for a term of two years; the advisory council shall meet at least six times annually;

(c) no person shall be ineligible for council membership by

virtue of his holding any other public office, employment or trust, nor shall any person be made ineligible to, or forfeit his right to any public office, employment or trust by reason of such appointment; and

(d) contracts for services and facilities under this chapter may be made with any university, medical school, public or voluntary hospital or not-for-profit corporation, agency or association, notwithstanding that any officer or employee or member of the medical or consultant staff thereof is a member of such advisory council provided that if any matter arises before the advisory council directly involving a university, medical school, public or voluntary hospital or not-for-profit corporation, agency or association or other institution of which any member of the council is an officer, employee or serving as a consultant, that member shall participate in the advisory council's deliberations on the matter only insofar as to provide any information requested of this member by other members of the advisory council and that member shall not participate further in the advisory council's deliberations on the matter after having provided the requested information.

## CHAPTER 23

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND ALCOHOLISM  
SERVICES

Sec. 590. Definitions. When used in this chapter: "mentally disabled" means those afflicted with mental illness, mental retardation or alcoholism as these terms are defined in section 1.05 of the mental hygiene law; or any other mental illness or mental condition placed under the jurisdiction of the department of mental health, mental retardation and alcoholism services by the mayor; "provider of services" means an individual, association, corporation or public or private agency which provides for the mentally disabled; "services for the mentally disabled" means examination, diagnosis, care, treatment, rehabilitation, training, education, research, preventive services, referral, residential services or domiciliary care of or for the mentally disabled, not specifically limited by any other law.

Sec. 591. Department; commissioner. There shall be a department of mental health, mental retardation and alcoholism services, the head of which shall be the commissioner of mental health, mental retardation and alcoholism services, who shall be a psychiatrist, appointed by the mayor, and whose qualifications shall meet the standards fixed by the mental hygiene law.

Sec. 592. Officials of the department. The commissioner may appoint two deputy commissioners.



Sec. 593. Powers and duties of the commissioner. The commissioner shall have the powers and duties of the department of mental health, mental retardation and alcoholism services and those conferred or imposed upon a community mental health, mental retardation and alcoholism services board and a director of a community mental health, mental retardation and alcoholism services board by the mental hygiene law or any other applicable law. Except as otherwise provided by law, such powers and duties shall include but shall not be limited to:

(a) determining the needs of the mentally disabled in the city, which determination shall include the review and evaluation of all mental hygiene services and facilities within the commissioner's jurisdiction;

(b) engaging in short-range, intermediate-range and long-range mental hygiene planning which reflects the entire array of city mental hygiene needs and mental hygiene resources; to effect such planning, the commissioner shall have assembled and analyzed all proper and relevant data from all providers of services;

(c) developing and submitting to the mayor and council a program for the delivery of services for the mentally disabled, including construction and operation of facilities;

(d) arranging, with the approval of the mayor, for the rendition of services and operation of facilities by other agencies of the city;

(e) within the amounts appropriated therefor, entering into

contracts for the rendition or operation of services and facilities on a per capita basis or otherwise, including contracts executed pursuant to subdivision e of section [11.19] 41.19 of the mental hygiene law;

(f) within the amounts appropriated therefor, executing such programs and maintaining such facilities as may be authorized under such appropriations;

(g) using the services and facilities of public or private voluntary institutions whenever practical, and encouraging all providers of services to cooperate with or participate in the program, whether by contract or otherwise;

(h) implementing and administering an inclusive citywide planning process for the delivery of services for the mentally disabled; and designing and incorporating within that planning process, consistent with applicable law, standards and procedures for community participation at the borough and local community level;

(i) encouraging the development and expansion of programs for the prevention, diagnosis, care, treatment, social and vocational rehabilitation, special education and training of the mentally disabled and for public education on mental disability;

(j) establishing coordination and cooperation among all providers of services, coordinating the department's program with the program of the state department of mental hygiene so that there is a continuity of care among all providers of services; and seeking to cooperate by mutual agreement with the state

department of mental hygiene and its representatives and with institutions in such department and their representatives in pre-admission screening and in post-hospital care of persons suffering from mental disability;

(k) making policy and planning for, monitoring, evaluating and exercising general supervision over all services and facilities for the mentally disabled within the commissioner's jurisdiction; and exercising general supervisory authority, through the promulgation of appropriate standards consistent with accepted professional practices[, over] for the care and treatment of patients within such services and facilities for the mentally disabled within the commissioner's jurisdiction;

(l) to the extent necessary to carry out the provisions of this chapter, the mental-hygiene law and other applicable laws and when not inconsistent with any other law, arranging for the visitation, inspection and investigation of all providers of services, by the department or otherwise;

[(m) conducting or contracting for such research and studies as may be useful for the discharge of the commissioner's duties and for the promotion of mental hygiene and prevention of mental disability;]

[(n)] (m) conducting such inquiries as may be useful, including investigations into individual patient care, in performing the functions of the department and for such purpose the commissioner shall have subpoena power to compel the attendance of witnesses, to administer oaths and to compel the

production of books, papers and documents[;] , and consistent with the provisions of the mental hygiene law, having access to otherwise confidential patient records, provided such information is requested pursuant to the functions, powers and duties conferred upon the commissioner by law;

[(o)] (n) in furtherance of the purposes of this chapter and the mental hygiene law, making rules and regulations covering the provision of services by providers of services;

[(p)] (o) submitting all materials required by the mental hygiene law for purposes of state reimbursement;

[(q)] (p) serving as a member of such state or federally authorized committees as may be appropriate to the discharge of the commissioner's functions;

[(r)] (q) performing such other acts as may be necessary and proper to carry out the provisions of this chapter and the purposes of the mental hygiene law.

Sec. 594. Functions of the department. Except as otherwise provided by law, the department shall perform all those functions and operations performed by the city of New York that relate to the mental health, mental retardation and alcoholism-related needs of the people of the city, including, where necessary and proper, performance of the functions and operations empowered in the commissioner by section five hundred ninety-three of this chapter.

Sec. 595. Mental hygiene advisory board. (a) 1. There shall be a mental hygiene advisory board which shall be advisory



to the commissioner in the development of community mental health, mental retardation and alcoholism facilities and services and programs related thereto. The board shall be constituted and its appointive members appointed and removed in the manner prescribed for a community mental health, mental retardation and alcoholism services board by the provisions of the mental hygiene law. Pursuant to the provisions of such law, such members may be reappointed without limitation on the number of consecutive terms which they may serve.

2. Members of the mental hygiene advisory board shall serve thereon without compensation except that each member shall be allowed actual and necessary expenses to be audited in the same manner as other city charges.

3. No person shall be ineligible for board membership because he holds any other public office, employment or trust, nor shall any person be made ineligible to or forfeit his right to any public office, employment or trust by reason of such appointment.

(b) 1. Contracts for services and facilities under this chapter may be made with a public or private voluntary hospital, clinic, laboratory, health, welfare or mental hygiene agency or other similar institution, notwithstanding that any member of the board is an officer or employee of such institution or agency or is a member of the medical or consultant staff thereof.

2. If any matter arises before the board directly involving a public or private voluntary hospital, clinic, laboratory, health, welfare or mental hygiene agency or other similar

institution of which any member of the board is an officer, employee or on the medical or consultant staff thereof, that member shall participate in the board's deliberations on the matter only in so far as to provide any information requested of him by the other members of the board and that member shall not participate further in the board's deliberations on the matter after having provided the required information.

Sec. 596. Advisory committees. The mayor may appoint such advisory committee or committees as he may deem necessary or desirable to advise the commissioner and the advisory board provided for in section five hundred ninety-five of this chapter.

Sec. 597. Construction clause. The provisions of this chapter shall be carried out subject to and in conjunction with the provisions of the mental hygiene law.

## CHAPTER 24

## DEPARTMENT OF SOCIAL SERVICES

Sec. 601. Department; commissioner. There shall be a department of social services the head of which shall be the commissioner of social services.

Sec. 602. Deputies. The commissioner may appoint three deputies.

Sec. 603. Powers and duties. The commissioner shall have the powers and perform the duties of a commissioner of social services under the social services law, provided that no form of outdoor relief shall be dispensed by the city except under the provisions of a state or local law which shall specifically provide the method, manner and conditions of dispensing the same.

Sec. 604. Public institutions under the commissioner. The commissioner shall control, maintain and operate such institutions as are now or may be put under his control.

## CHAPTER 25

## DEPARTMENT OF CORRECTION

Sec. 621. Department; commissioner. There shall be a department of correction the head of which shall be the commissioner of correction.

Sec. 622. Deputies. The commissioner may appoint two deputies.

Sec. 623. Powers of commissioner. The commissioner shall have:

1. Charge and management of all institutions of the city, including all hospital wards therein for the care and custody of felons, misdemeanants, all prisoners under arrest awaiting arraignment who require hospital care, including those requiring psychiatric observation or treatment and violators of ordinances local laws and for the detention of witnesses who are unable to furnish security for their appearance in criminal proceedings, except such places for the detention of prisoners or persons charged with crime as are by law placed under the charge of some other agency.

2. Sole power and authority concerning the care, custody and control of all court pens for the detention of prisoners while in the criminal courts of the city of New York, the family court of the state of New York within the city of New York, the supreme court in the counties of New York, Bronx, Kings, Queens and Richmond and of all vehicles employed in the transportation of



prisoners who have been sentenced, are awaiting trial or are held for any other cause.

3. Charge and management of persons or any other institution of the city placed under his jurisdiction by law.

4. All authority, except as otherwise provided by law, concerning the care and custody of felons, misdemeanants and violators of local laws held in the institutions under his charge.

5. All authority in relation to the custody and transportation of persons held for any cause in criminal proceedings and all prisoners under arrest awaiting arraignment who require hospital care, including those requiring psychiatric observation or treatment, in any county within the city.

6. General supervision and responsibility for the planning and implementation of re-training, counseling and rehabilitative programs for felons, misdemeanants and violators of local laws who have been sentenced and are held in institutions under his charge.

Sec. 624. Cleaning and maintenance of buildings. The commissioner shall maintain and operate buildings and structures under his jurisdiction. The commissioner may construct such additions and repairs to buildings under his jurisdiction as can be accomplished by the use of the labor of persons under his care and custody and with materials in the possession of the department.

Sec. 625. Labor of prisoners. Every inmate of an institution

under the authority of the commissioner shall be employed in some form of industry, in farming operations or other employment, and products thereof shall be utilized in the institutions under the commissioner or in any other agency. Those persons held for trial may be employed in the same manner as sentenced prisoners, provided they give their consent in writing. Such inmates or prisoners held for trial may be detailed by the commissioner to perform work or service on the grounds and buildings or on any public improvement under the charge of any other agency.

Sec. 626. Board of correction. a. There shall be a city board of correction to consist of nine members. Members shall be appointed for a term of six years. Vacancies shall be filled for the remainder of the unexpired term. Three members shall be appointed by the mayor, three by the council, and three by the mayor on the nomination jointly by the presiding justices of the appellate division of the supreme court for the first and second judicial departments. Appointments shall be made by the three respective appointing authorities on a rotating basis to fill any vacancy occurring on or after the effective date of this charter. Members of the board may be reimbursed for expenses incurred in the performance of their duties. The chairman of the board shall be designated from time to time by the mayor from among its members. Members of the board may be removed by the mayor for cause and after a hearing at which they shall be entitled to representation by counsel.

b. The board shall adopt rules to govern its own proceedings.

The board may appoint an executive director to serve at its pleasure with such duties and responsibilities as the board may assign, and other professional, clerical, and support personnel within appropriations for such purpose. The commissioner shall designate such of the department's stenographic, clerical and other assistance to the board as may be necessary for the proper performance of its functions. The commissioner may attend meetings of the board but shall not be a member of it.

c. The board, or by written designation of the board, any member of it, the executive director, or other employee, shall have the following powers and duties:

1. The inspection and visitation at any time of all institutions and facilities under the jurisdiction of the department;

2. The inspection of all books, records, documents, and papers of the department;

3. The preparation for submission to the mayor, the council, and the commissioner of proposals for capital planning and improvements; studies and reports concerned with the development of the department's correctional program planning; and studies and reports in regard to methods of promoting closer cooperation of custodial, probation, and parole agencies of government and the courts; and

4. The evaluation of departmental performance.

d. The board, annually and at such other times as it may determine, shall submit to the mayor, the council, and the

commissioner reports, findings and recommendations in regard to the matters within its jurisdiction.

e. The board shall establish minimum standards for the care, custody, correction, treatment, supervision, and discipline of all persons held or confined under the jurisdiction of the department; and it shall promulgate such minimum standards in rules and regulations after giving the mayor and commissioner an opportunity to review and comment on the proposed standards, or amendments or additions to such standards.

f. The board shall establish procedures for the hearing of grievances, complaints or requests for assistance

(1) by or on behalf of any person held or confined under the jurisdiction of the department or

(2) by any employee of the department. The board, or by written designation, a member of the board or the executive director, may conduct hearings, or study or investigate any matter within the jurisdiction of the department, and the board may make recommendations and submit reports of its findings to the appropriate authorities.

g. Within the scope of its authority pursuant to this section, the board may compel the attendance of witnesses, require the production of books, accounts, papers and other evidence, administer oaths, examine persons, and conduct public or private hearings, studies and investigations. The board may institute proceedings in a court of appropriate jurisdiction to enforce its subpoena power and other authority pursuant to this



section.

Sec. 627. Council members authorized to visit correctional facilities. Any council member is authorized to inspect and visit at any time the institutions and facilities under the jurisdiction of the department.

## CHAPTER 26

## DEPARTMENT OF BUILDINGS

Sec. 641. Department; commissioner. There shall be a department of buildings, the head of which shall be the commissioner of buildings. The commissioner shall be a registered architect or a licensed professional engineer in good standing under the education law.

Sec. 642. Deputies. The commissioner may appoint two deputies.

Sec. 643. Department; functions. The department shall enforce, with respect to buildings and structures, such provisions of the building code, zoning resolution, multiple dwelling law, labor law and other laws, rules and regulations as may govern the construction, alteration, maintenance, use, occupancy, safety, sanitary conditions, mechanical equipment and inspection of buildings or structures in the city, and shall perform the functions of the city of New York relating to

(1) the designation of buildings and structures as unsafe and the necessary legal action in relation thereto prior to the removal of the unsafe condition through demolition or sealing except as provided in section eighteen hundred two of this charter;

(2) the shoring of hazardous and unsafe buildings and structures;

(3) the testing and approval of power-operated cranes and

derricks used for construction, alteration, demolition, excavation and maintenance purposes, including such uses in highways or sewers, or used to hoist or lower any article on the outside of any building, excluding cranes and derricks used in industrial plants or yards;

(4) the location, construction, alteration and removal of signs, illuminated or non-illuminated, attached to the exterior of any building or structure;

(5) all surface and subsurface construction within the curb line, including curb cuts and driveways, the covering thereof and entrances thereto, and the issuance of permits in reference thereto;

(6) the regulation, inspection and testing of gas and electricity used for light, heat and power purposes, electric, gas and steam meters, electric wires and all lights furnished to the city; and

(7) the regulation, inspection and testing of wiring and appliances for electric light, heat and power in or on any building or structure in the city; provided, however, that the jurisdiction of the department, except for the testing and approval of power-operated cranes and derricks used for construction, alteration, demolition, excavation and maintenance purposes and the licensing of the operators of such equipment, the regulation, inspection and testing of gas and electricity used for light, heat and power purposes, electric, gas and steam meters, electric wires and lights and the regulation, inspection

and testing of wiring and appliances for electric light, heat and power, shall not extend to waterfront property owned by the city and under the jurisdiction of the department of ports, international trade and [terminals] commerce, or to the following structures on any such waterfront property; wharves, piers, docks, bulkheads, structures wholly or partly thereon, or to such other structures used in conjunction with or in furtherance of waterfront commerce or navigation, or to bridges, tunnels or subways or structures appurtenant thereto. [Sec. 644. Department; powers. The commissioner shall have the power and duty:

(a) to prepare and transmit the budget estimates of the department as required by law;

(b) to supervise the execution and management of all programs, activities and expenditures of the department; and

(c) to the extent to which the organization of the department is not prescribed by law, and in accordance with such standards and policies as may be established by the mayor, to organize the department into divisions, bureaus, boards or offices and make assignments of powers and duties among them and from time to time change such organization or assignments.]

Sec. 645. Offices of the department; powers and duties. (a) There shall be a main office of the department and in each borough at least one branch office and a borough superintendent. Persons appointed as inspectors to perform functions of the department shall have such qualifications as shall be prescribed



by the personnel director after consultation with the commissioner; provided however that such qualifications shall include:

(1) a minimum of five years acceptable experience working at a construction trade; or

(2) a license as a professional engineer or architect issued pursuant to the education law; or

(3) a minimum of three years of acceptable experience working at a construction trade and a minimum of two years of formal training or education in an acceptable construction program, with an emphasis on construction, in a college, technical school or trade school; or

(4) a minimum of two years of acceptable experience working at a construction trade or a minimum of two years of formal training or education in an acceptable construction program, with an emphasis on construction, at a college, trade school or technical school and a minimum of three years participation in an apprentice inspection program approved by the commissioner and personnel director.

(b) 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:

(1) to examine and approve or disapprove plans for the construction or alteration of any building or structure, including the installation or alteration of any service equipment

therein, and to direct the inspection of such building or structure, and the service equipment therein, in the course of construction, installation or alteration;

(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;

(3) to issue certificates of occupancy for any building or structure situated in the city, provided that:

a. no building or structure hereafter constructed may be occupied or used in whole or in part for any purpose until a certificate of occupancy has been issued;

b. no building or structure or part thereof for which a certificate of occupancy has not been previously issued or

required shall be occupied or used for any purpose whatever in case such building shall hereafter be altered or converted so as to decrease or increase the number of living rooms or apartments, until a certificate of occupancy has been issued, except that this requirement shall not apply to any old law or new law tenement wherein two or more apartments are combined creating larger residential units, the total legal number of families within the building is being decreased, and the bulk of the building is not being increased;

c. no buildings hereafter altered or converted from one class to another class shall be occupied or used for any purpose whatever in case such building was vacant during the progress of the work, until a certificate of occupancy has been issued; in case such an alteration does not necessitate the vacating of the building during the progress of the work, the occupancy or use of the building shall not continue more than thirty days after the completion of such alteration, unless a certificate of occupancy has been issued;

d. a certificate of occupancy of a building or structure shall certify that such building or structure conforms to the requirements of all laws, rules, regulations and orders applicable to it and shall be in such form as the commissioner shall direct;

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;

f. the commissioner may, on request of the owner of a building or structure or his authorized representative, issue a temporary certificate of occupancy for any part of such building or structure provided that such temporary occupancy or use would not in any way jeopardize life or property;

g. the commissioner may permit in specific cases experimental or demonstration construction not in compliance with the building



code in order to obtain knowledge and information not supplied from other experiments within the city; the owner of such construction shall conduct such periodic tests and evaluations as the commissioner may specify and submit results and reports to the department of building as the commissioner may require; except as otherwise specifically permitted by the commissioner, the construction shall be erected and maintained in accordance with all provisions of applicable laws, rules and regulations.

(c) The commissioner may, by instrument in writing filed in the department, designate a borough superintendent of the department to possess within a borough any of the powers granted to the commissioner by subdivision (b) of this section and to exercise the same within such borough in the name of the commissioner for such times and under such conditions as he may specify. The borough superintendent shall also perform such other duties as the commissioner may direct.

(d) The commissioner shall review and certify any proposed subdivision of a zoning lot with any building thereon, in order to ensure that the subdivision will not result in any violation of the applicable zoning laws. For such purposes, the subdivision applicant shall file with the commissioner, prior to recordation with the city register or the county clerk in the case of Staten Island the following:

(1) a subdivision map of the entire original zoning lot with any building thereon; and

(2) a statement by the subdivision applicant assuring

compliance of the proposed subdivision with applicable zoning laws.

Sec. 646. Conduct of investigations. The commissioner shall have the power and duty to conduct such inquiries as may assist him in the performance of the functions of the department where the public safety is involved and for such purpose he shall have subpoena power to compel the attendance of witnesses, to administer oaths, examine witnesses and to compel the production of books, papers and documents.

Sec. 647. Definition of "class". The term "class" as used in this chapter refers to the classification of buildings in the building code or other applicable laws and shall be deemed to refer also to the terms "class" or "kinds" as used in the multiple dwelling law where such law is applicable.

Sec. 648. Appeals. Appeals may be taken from decisions of the commissioner and of the borough superintendent acting under a written delegation of power filed in accordance with the provisions of subdivision (c) of section six hundred forty-five of this chapter, to the board of standards and appeals as provided by law.

Sec. 649. Inspection. The commissioner, any deputy commissioner, borough superintendents, inspectors, or any officer of the department authorized in writing by the commissioner or a borough superintendent to act in his borough may, in accordance with law, for the purpose of performing their respective official duties, enter and inspect any building, structure, enclosure,

premises or any part thereof or anything therein or attached thereto; and any refusal to permit such entry or inspection shall be a misdemeanor triable in criminal court and punishable upon conviction by not more than thirty days imprisonment or by a fine of not more than one hundred dollars, or both.

## CHAPTER 27

## BOARD OF STANDARDS AND APPEALS

Sec. 659. Executive director of standards and appeals. a. There shall be an executive director of standards and appeals who shall be appointed by and shall hold office at the pleasure of the board of standards and appeals.

b. The executive director shall have had at least five years' experience in administrative or supervisory positions dealing with administration and personnel. He shall devote his entire time to the performance of his duties and shall not engage in any other occupation, profession or employment.

Sec. 660. Staff, powers and duties. a. The executive director may appoint such engineers, architects, experts and other officers and employees as may be required to perform the duties of his office, with the approval of the board and within the appropriation provided therefor.

b. The executive director shall assign and supervise all members of his staff. He shall provide for the testing of materials and appliances and have prepared and presented matters before the board of standards and appeals in accordance with the rules, regulations and directives of such board, and shall prepare the calendar of such board.

Sec. 661. Constitution and appointment. a. The board of standards and appeals shall consist of six members to be termed commissioners to be appointed by the mayor each for a term of six



years, commencing at the expiration of the terms of the present incumbents.

b. One of the members shall be a planner with professional qualifications and at least ten years' experience as a planner. Two of the members shall be registered architects and shall have had at least ten years' experience as architects. One shall be a licensed professional engineer and shall have had at least ten years' experience as an engineer engaged in structural work. One shall be a licensed professional engineer and shall have had at least ten years' experience as an engineer engaged in mechanical work. The mayor shall designate one of the members, who shall have had the required experience as an architect, planner, or as an engineer, to serve as chairman and shall designate one of the members to serve as vice-chairmen who shall act as chairman in the absence of the chairman or in the event that a vacancy exists in the office of chairman.

c. Every member of the board shall receive a salary, which shall not be reduced during his term of office except in case of a general reduction of salaries and in proportion to reductions of salaries of other officers with similar salaries. A member shall not engage in any other occupation, profession or employment. Members shall attend the hearings and executive sessions of the board, and shall perform such other duties as may be required by the chairman.

d. Vacancies shall be filled by the mayor for the unexpired term of the member whose place has become vacant and with a

person having his qualifications.

Sec. 662. Removal by mayor after hearing. Any member may be removed by the mayor on proof of official misconduct, or of negligence in official duties, or of conduct in any manner connected with his official duties which tends to discredit his office, or of mental or physical inability to perform his duties; but before removal he shall receive a copy of the charges and shall be entitled to a hearing before the mayor and to the assistance of counsel at such hearing.

Sec. 663. Meetings. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings before the board shall be open to the public and shall be before at least four members of the board, and a concurring vote of at least four members shall be necessary to a decision. The board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official action. Such minutes and such records shall be public records.

Sec. 664. Member interested in question. No member of the board shall pass upon any question in which he or any corporation in which he is a stockholder or security holder is interested.

Sec. 665. Rules and regulations; bulletin. a. Every rule or

regulation and every amendment or repeal thereof, and every order, requirement, decision or determination of the board shall immediately be filed in the office of the board and shall be a public record.

b. The director shall print and publish weekly a bulletin in which [he] the director shall publish every rule, regulation, amendment or repeal thereof made by the board, and every order, requirement, decision and determination of the board, and the reasons therefor whenever it shall deem it practical to do so, and such other matters, including indices and digests, as the director may deem it advisable to publish.

[c. At least ten days' notice of intention to adopt, amend or repeal any rule or regulation shall be given by publication in the bulletin of the board, and a public hearing shall be given before any action is taken thereon. The adopted rules and regulations and amendments and changes thereof shall take effect not less than twenty days after the publication thereof in the bulletin of the board.]

[d.] c. Every amendment or repealer to the reference standards of the building code of the city of New York shall be published forthwith in the City Record.

Sec. 666. Jurisdiction. The board shall have power:

1. To require the testing of and to approve, materials and appliances to be used pursuant to law.
2. To make, amend and repeal rules and regulations for carrying into effect the provisions of the laws, resolutions,

rules and regulations in respect to any subject-matter jurisdiction whereof is conferred by law upon the board, and to include in such rules and regulations provisions applying to specific conditions and prescribing means and methods of practice to effectuate such provisions and for carrying into effect the powers of the board.

3. To make, amend and repeal rules and regulations for the enforcement of those provisions of the labor law and other laws which relate to the construction or alteration of, structural changes in, plumbing and drainage of, elevators in, fire escapes on, adequacy and means of exit from, or fire protection in, all buildings within the city, which shall take the place of the industrial code and of any rules and regulations of the department of labor of the state of New York relating to the same subject-matter.

4. To make, amend and repeal rules, regulations and directives governing the preparation and presentation by the director of matters before the board.

5. To exercise exclusively with respect to buildings situated within the city, the same powers as are exercised by the department of labor of the state of New York elsewhere in the state.

6. 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.

7. 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 any borough superintendent of buildings acting under a written delegation of power from the commissioner of buildings filed in accordance with the provisions of subdivision (b) of section six hundred forty-five, 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) any order, requirement, decision or determination of the commissioner of transportation or the commissioner of ports and terminals made in relation to the structures or uses on water front property under his 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.

8. 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 [title D of chapter twenty-six of the administrative] the housing maintenance code and of any regulation or order issued under such title may be varied or modified only to the extent permitted by such title and only in the manner and subject to the conditions therein specified.

9. 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.

10. 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.

11. To issue such special permits under the zoning resolution as are authorized by the city planning commission and the board of estimate.

Sec. 667. Inspections. Any member of the board or any subordinate thereof shall, when authorized in writing by the chairman, and the director or any officer or employee designated by him in writing shall have power at any time to enter, inspect and examine any premises, buildings, structures, vehicles or vessels for the purpose of carrying out the duties of the board and shall report his findings in writing to the board. Refusal to permit such entry shall be triable by a judge of the New York city criminal court and punishable by not more than thirty days' imprisonment, or by a fine of not more than fifty dollars, or both.

Sec. 668. Variances and special permits.

a. Community boards and borough boards shall review applications to vary the zoning resolution and applications for special permits within the jurisdiction of the board of standards and appeals under the zoning resolution pursuant to the following procedure:

1. Each proposal or application shall be filed with the board of standards and appeals, 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 g of section one hundred ninety-seven-c, conduct a public hearing thereon and prepare and submit a written recommendation thereon directly to the board of standards and appeals, 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 that 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 board of standards and appeals.

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 board of standards and appeals 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 board of standards and appeals any additional documents or plans, he or she shall at the same time forward copies of such documents or plans to the city planning commission, the council member involved and to the community or borough board involved.

b. The recommendation of a community board or borough board pursuant to subdivision a of this section shall be filed with the board of standards and appeals and a copy sent to the city planning commission. The board of standards and appeals shall conduct a public hearing and act on the proposed application. A decision of the board 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 board of standards and appeals and copies of any recommendation of the affected community board or borough board shall be filed with the city planning commission and the board of estimate. Copies of the decision shall also be filed with the affected community or borough boards. Within thirty days of such decision, an appeal may be taken to the board of estimate by an applicant or other interested party, community

board or borough board. In the event of an appeal, the board of estimate, in its discretion, may accept jurisdiction in such matter within thirty days after the filing of the appeal and shall render a decision within thirty days after accepting jurisdiction. In the case of an application to determine and vary the zoning resolution, review by the board of estimate shall be limited to an administrative determination as to whether the decision of the board of standards and appeals under each of the specific requirements of the zoning resolution was supported by substantial evidence before the board of standards and appeals. The board of estimate may approve or disapprove such decision and shall provide written findings and an explanation of the basis for its decision under the zoning resolution.

d. Any decision of the board of standards and appeals or of the board of estimate pursuant to this section may be reviewed as provided by law.

e. The city planning commission shall be a party to any proceeding to determine and vary the application of the zoning resolution. The commission may appear and be heard on any application pursuant to this section before the board of standards and appeals or the board of estimate if, in the judgment of the planning commission, the granting of relief requested in such application would violate the requirements of the zoning resolution relating to the granting of variances. The commission may appeal to the board of estimate the granting or denial of any such variance by the board of standards and appeals

and shall have standing to challenge the granting or denial of a variance in a proceeding brought pursuant to article seventy-eight of the civil practice law and rules, or in any similar proceeding.

Sec. 669. Procedure on appeals. a. An appeal may be taken by any person aggrieved or by the head of any agency.

b. Such appeal may be taken within such time as shall be prescribed by the board by general rule, by filing with the officer from whom the appeal is taken and with the board a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

c. The board shall fix a reasonable time for the hearing of appeals, and give due notice thereof to the parties, and decide the same within a reasonable time. If the appeal is from an order revoking a permit or approval, the hearing shall be had no later than at the third scheduled hearing of the board following the date of filing of the appeal, or five weeks following such date, whichever is sooner, and the decision of the board shall be rendered expeditiously. Upon the hearing any party may appear in person or by agent or attorney.

d. Any decision of the board under this section may be reviewed as provided by law.

## CHAPTER 28

### DEPARTMENT OF JUVENILE JUSTICE

Sec. 675. Department; commissioner. There shall be a department of juvenile justice, the head of which shall be the commissioner of juvenile justice.

Sec. 676. Deputies. The commissioner may appoint two deputies.

Sec. 677. Powers and duties of the commissioner. The commissioner shall:

a. establish, initiate, control, maintain and operate secure and non-secure facilities for the temporary care and maintenance away from their own homes only of children alleged to be or adjudicated as juvenile delinquents and only of children alleged, adjudicated or convicted as juvenile offenders in detention as defined in subdivision one of section five hundred ten-a of the executive law,

b. have the power to contract with other public and private agencies for such services, in order to ensure that adequate, suitable, and conveniently accessible accommodations and proper care will be available when required for detention, within the appropriations available therefor,

c. establish such regulations for the operation of secure and non-secure detention facilities as may be necessary and not inconsistent with state or local law or with applicable rules and regulations of any state or city agency having jurisdiction.



Notwithstanding any other provision of law, the commissioner shall provide or secure the availability of conveniently accessible and adequate non-secure detention facilities, certified by the state division for youth, as resources for the courts in the city of New York pursuant to provisions of the family court act, the criminal procedure law, and section five hundred ten-a of the executive law,

d. develop, implement and maintain systems to collect, store and disseminate data concerning juvenile delinquency, juvenile crime and the juvenile justice system,

e. participate with other city agencies in the development, implementation and maintenance of a juvenile justice information system, to include (i) an index of records of the Family Court and Department of Probation related to proceedings conducted pursuant to Article 3 of the Family Court Act, and (ii) other information, including but not limited to age, sex, race, date of birth, charges, dispositions, warrants, calendar information and case management data connected with such cases, such records to be made available to the Family Court, the Probation Department, and an agency with which the child is placed or committed upon request, and otherwise to be kept confidential except as provided by law,

f. plan, develop, conduct and supervise programs, including diversion and aftercare for previously detained juveniles, for the prevention of juvenile delinquency and juvenile crime and for youths arrested, charged, adjudicated or convicted of having

committed delinquent or criminal acts, and to conduct research and demonstration projects related thereto[.,].

[g. report annually by September 30th of each year to the Deputy Mayor for Operations and the City Council on the performance of the agency and on recommendation for the improvement of the juvenile justice system, and

h. perform such other functions as may lawfully be delegated.]

Sec. 678. Advisory board. a. There shall be in the department an advisory board consisting of eleven members.

b. It shall be the duty of the board to advise the commissioner and make recommendations. The board shall submit an annual report of its activities to the mayor.

c. The members of the board shall be appointed by the mayor and shall serve at the pleasure of the mayor. Five of the members, one resident from each of the five boroughs of New York city, shall be recommended for appointment by a majority vote of the council members of the respective borough.

d. The mayor shall designate one of the members of the board to be chairman and one to be vice chairman, neither of whom shall be employees of the city of New York.

e. The members of the board shall serve without compensation.

## CHAPTER 29

## DEPARTMENT OF PORTS, INTERNATIONAL TRADE AND COMMERCE

Sec. 701. Department; commissioner; seal. There shall be a department of ports, international trade and commerce, the head of which shall be the commissioner of ports, international trade and commerce. The commissioner may adopt a seal for the department and direct its use.

Sec. 702. Deputies. The commissioner may appoint two deputy commissioners, one to be the first deputy commissioner.

Sec. 703. Secretary. The commissioner may appoint a secretary to the department, who shall keep and attest to the seal of the department and shall perform such other duties as may be assigned by the commissioner, consistent with law.

Sec. 704. Powers and duties of the commissioner. The commissioner shall have the power, and it shall be his duty, to promote and foster development of intrastate, interstate, and international commerce and trade in the city of New York and to exercise the functions, operations, powers and duties of the city relating to the development, construction, reconstruction, operation, maintenance, management, administration and regulation of public markets, wharf property, water front property and airports within the city of New York including, without limitation, the following:

(a) to exercise the powers of a commissioner of public markets

of a city and a city department of public markets under the agriculture and markets law;

(b) to have exclusive charge and control of the wharf property and water front property owned or possessed by the city and of the building, rebuilding, repairing, altering, maintaining strengthening, protecting, cleaning, dredging and deepening of such wharf property and water front property; provided, that the board of estimate, on the recommendation of the city planning commission and after a public hearing, notice of which shall be given by publication in the City Record not less than seven or more than thirty days prior thereto, may withdraw from the jurisdiction of the department and assign for use for any public purpose or assign to the jurisdiction of any other agency any wharf property or water front property owned by the city and not under lease;

(c) to have exclusive power to regulate water front property and the following structures on any water front property: wharves, piers, docks, bulkheads, structures wholly or partly thereon, and such other structures used in conjunction with and in furtherance of water front commerce and/or navigation;

(d) to have the exclusive power to enforce with respect to public markets, water front property and any structures on water front property under its jurisdiction, the labor law and such other laws, rules and regulations as may govern the dredging, filling, removal, construction, alteration, maintenance, use, occupancy, safety, sanitary conditions, mechanical equipment and



inspection of structures in the city, and the issuance of permits and certificates of completion in reference thereto, and to establish or amend fees to be charged for the issuance of such permits or certificates of completion, which fees shall be fixed by the board of estimate on recommendation of the commissioner after a public hearing, notice of which shall be given by publication in the City Record for the five days of publication of the City Record immediately prior thereto;

(e) to have exclusive power to regulate the use of marginal streets so that they may be used to the best advantage in connection with wharf property and to regulate by license or otherwise the transfer of goods and merchandise upon, over or under all such marginal streets;

(f) to administer and enforce the provisions of the zoning resolution of the city of New York in respect to the following structures on any water front property: wharves, piers, docks, bulkheads, structures wholly or partly thereon, and such other structures used in conjunction with and in furtherance of water front commerce and/or navigation in the same manner and in accordance with the same procedure as is prescribed therein;

(g) to lease, subject to the approval of the board of estimate, any wharf property belonging to the city for such terms and in such manner as may be provided by law. Such leases may be sold at public auction duly advertised in the City Record for at least ten days prior thereto, and if not so sold the terms of any lease must be approved by the board of estimate by a

three-fourths vote after a public hearing, notice of which shall be published in the City Record for the six days of publication of the City Record immediately prior thereto. If the department fails to agree upon terms of a lease with any person desiring to lease any wharf property, it shall, if the offer be made in writing, decline it in writing and such person may submit his proposed lease to the board of estimate at its next regular meeting, and if the board accepts the same by a three-fourths vote at such meeting or any one of its three regular meetings next succeeding thereto, the department shall promptly execute such lease;

(h) to grant temporary permits terminable at will for a period not exceeding one year to use and occupy any wharf property belonging to the city

(i) to set aside by order any wharf property belonging to the city, which has not been leased, for general wharfage purposes or for the use of any special kind of commerce, or of any class of vessel, or of any agency, and to revoke or modify such order as to any such wharf property at any time;

(j) to regulate, subject to the approval of the board of estimate, the charges for wharfage, cranage and dockage of all vessels or floating structures using any wharf property set aside under subdivision (i) of this section , provided that the rates which it shall be lawful to charge for wharfage, cranage and dockage from any vessel or floating structure which makes use of any other wharf property within the port of New York shall be

fixed by the board of estimate after public hearing on recommendation of the department;

(k) to establish, amend and enforce all needful rules and regulations for the proper care of all public markets, wharf property and waterfront property placed in his charge or over which he shall have power of regulation and to issue such orders as may be necessary for such enforcement. [No such rule, regulation or amendment thereof shall become valid and effective until a copy thereof, duly certified by an officer of the department to be a correct copy, shall have been filed with the city clerk and such rule, regulation or amendment, published once a week for two successive weeks in the City Record.] The violation of or the failure to comply with any such order, rule or regulation shall be triable in criminal court and punishable, upon conviction, by not more than thirty days imprisonment or by a fine of not less than one hundred dollars nor more than five hundred dollars, or both;

(l) to sell, subject to the approval of the board of estimate, buildings, structures and other improvements on market property and wharf property to a person leasing such property pursuant to subdivisions (a) and (g) of this section;

(m) to manage and promote the economic development of all airports, airplane landing sites, seaplane bases and heliports owned or possessed by the city; and to lease any part of such property in the same manner as wharf property;

(n) to promote and encourage the expansion and development of

the city as a center for intrastate, interstate and international overland freight transportation;

(o) to promote, coordinate and implement activities, projects and programs designed to attract foreign direct investment and promote overseas sales by firms in the city and to otherwise encourage, stimulate and foster the well-being, development, growth and expansion of international business, commerce, and trade in the city; and

(p) to administer and promote the development of foreign trade zones within the city.

Sec. 705. Waterfront plans. (a) The plans for the water front of the city are continued in effect and may be changed by the commissioner with the approval of the board of estimate after a public hearing before the board. Notice of such hearing shall be published in the City Record for the seven days of publication of the City Record immediately prior thereto. Such change shall take effect notwithstanding that any plan may have been wholly or partially physically perfected and improvements made in conformity therewith. The board of estimate, before approving any change, shall refer it to the city planning commission, and the procedure thereafter shall be the same as in case of a change in the city map not initiated by the city planning commission.

(b) No wharf, pier, bulkhead, basin, dock, slip, marginal street or other structure shall be laid out, built, or rebuilt in the port of New York in the area included in such plans except in



accordance with such plans as changed from time to time, provided, that the commissioner, with the approval of the board of estimate, may from time to time change the width or location of any of the piers laid down on such plans and build or rebuild temporary wharf structures or license or permit the building or rebuilding thereof as may be provided by law. (c) The

commissioner may widen, open, construct, abandon or close any marginal street or avenue included in such plans and shall maintain the widened portion of such street or avenue, or the new street or avenue as a marginal street, and such new street, or such a widen street to the extent of the portion so widened, shall not be a public street. Before acting under this subdivision, the commissioner shall make a report to the city planning commission including a map showing any proposed change and such other information as the city planning commissioner shall require. If the city planning commission makes a finding that the proposed change is in accordance with the waterfront plan or approves the change, the commissioner may proceed with it, but if the city planning commission makes a finding that it is not in accordance with such plan and disapproves the change, then the commissioner shall not proceed unless the board of estimate by a three-fourths vote authorizes the commissioner to proceed. The city planning commission shall act on such change within six weeks from the time when it is filed in the office of the commission and if it does not act within such weeks the commissioner may proceed with the change.

## CHAPTER 31

## DEPARTMENT OF SANITATION

Sec. 751. Department; commissioner. There shall be a department of sanitation the head of which shall be the commissioner of sanitation.

Sec. 752. Deputies. The commissioner may appoint three deputies.

Sec. 753. Powers and duties of the commissioner. a. Except as otherwise provided by law, the commissioner shall have charge and control of and be responsible for all those functions and operations of the city relating to the cleanliness of the streets and the disposal of waste, including, without limitation, the following:

(1) the sweeping, cleaning, sprinkling, flushing, washing and sanding of the streets;

(2) the removal and disposition of ashes, street sweepings, garbage, refuse, rubbish and waste;

(3) the removal of ice and snow from the streets;

(4) the removal of encumbrances from the streets and the storage or disposal of such encumbrances in accordance with regulations adopted by the board of estimate, except that such board may provide by regulation that the removal and storage of household effects or other chattels shall be a responsibility of the department of general services or its successor agency;

(5) plans, design, construction, operation, alteration, repair, maintenance, replacement, enlargement and regulation of the use of incinerators, landfills and other plants, facilities and equipment necessary for or useful for performing the functions and exercising the powers and duties enumerated in this section; and

(6) the powers and duties of the commissioner with respect to the resource recovery task force set forth in subdivision f of section fourteen hundred and three of this charter.

b. The commissioner may adopt regulations specifying the kind of ashes, garbage, refuse, rubbish or other material or substance that will be collected by the city, from whom it will be taken, the manner in which it shall be arranged or sorted, the time when it will be collected and the place at which it shall be deposited for collection, and may prescribe civil penalties for violations thereof.

c. Such regulations shall be enforced by order of the commissioner. Such order shall be addressed to the owner or owners, lessees or occupants of the building, structure, enclosure, vessel, place or premises affected thereby. It shall not be necessary to designate such owner or owners, lessees or occupants by name in such order, however the premises shall be designated in the address so that the same may be readily identified. Service of any such order may be made by delivery of a copy thereof to the owner or any one of several owners, to a lessee or any one of several lessees, or to any person of

suitable age or discretion in charge of the premises, or if no person be found in charge of the premises, then by affixing a copy of such order prominently upon the premises. If such order is not complied with within the time specified therein, the commissioner shall prosecute the person or corporation liable therefor for the penalty prescribed by the regulation violated in furtherance of which such order shall have been issued and served.

d. The commissioner may adopt regulations controlling the use of sidewalks and gutters by abutting owners and occupants for the disposition of sweepings, garbage, refuse or rubbish, and may provide that the violation thereof shall be punishable by civil penalty, fine or imprisonment. Such regulations shall be submitted to the council and when approved by it shall be published and enforced in like manner as local laws.

Sec. 754. Duties and obligations of property owner with respect to keeping vacant lots clean. Notwithstanding any provision of law, the owner of any property at his own cost shall keep any vacant lot or lots on such property in a clean and sanitary manner and free of debris and other litter. The department of sanitation shall be responsible for the enforcement of this section and may issue rules and regulations in furtherance of such authority. In the event that an owner of property fails to comply with the provisions of this section, or the rules and regulations of such department, the department may provide for the cleaning of a vacant lot at the expense of the



property owner in the manner to be provided by local law.

Sec. 755. Definition. When used in this chapter "street" includes street, avenue, road, alley, lane, highway, parkway, boulevard, concourse, driveway, culvert and crosswalk, and every class of public road, square and place, except a wharf, pier, bulkhead or slip by law committed to the custody and control of any other agency.

CHAPTER 34  
DEPARTMENT OF INVESTIGATION

Sec. 801. Department; commissioner. There shall be a department of investigation the head of which shall be the commissioner of investigation. He shall be a member of the bar of the state of New York in good standing and shall have had at least five years of law enforcement experience.

Sec. 802. Deputies. The commissioner may appoint two deputies, either of whom may, subject to the direction of the commissioner, conduct or preside at any investigations authorized by this chapter.

Sec. 803. Powers and duties. a. The commissioner shall make any investigation directed by the mayor or the council.

b. The commissioner is authorized and empowered to make any study or investigation which in his opinion may be in the best interests of the city, including but not limited to investigations of the affairs, functions, accounts, methods, personnel or efficiency of any agency.

c. For any investigation made pursuant to this section, the commissioner shall prepare a written report or statement of findings and shall forward a copy of such report or statement to the requesting party, if any. In the event that the matter investigated involves or may involve allegations of criminal conduct, the commissioner, upon completion of the investigation,

shall also forward a copy of his written report or statement of findings to the appropriate prosecuting attorney, or, in the event the matter investigated involves or may involve a conflict of interest or unethical conduct, to the board of ethics.

d. The jurisdiction of the commissioner shall extend to any agency, officer, or employee of the city, or any person or entity doing business with the city, or any person or entity who is paid or receives money from or through the city or any agency of the city.

Sec. 804. Complaint bureau. There shall be a complaint bureau in the department which shall receive complaints from the public.

Sec. 805. Conduct of investigations. a. For the purpose of ascertaining facts in connection with any study or investigation authorized by this chapter, the commissioner and each deputy shall have full power to compel the attendance of witnesses, to administer oaths and to examine such persons as he may deem necessary.

b. The commissioner or any agent or employee of the department duly designated in writing by him for such purposes may administer oaths or affirmations, examine witnesses in public or private hearing, receive evidence and preside at or conduct any such study or investigation.

[Sec. 806. Interference with investigation. a. No person shall prevent, seek to prevent, interfere with, obstruct, or otherwise hinder any study or investigation being conducted

pursuant to this chapter. Any violation of this section shall constitute cause for suspension or removal from office or employment.

b. Full cooperation with the commissioner shall be afforded by every officer or employee of the city or other persons.]

Sec. 807. Inspectors general of agencies. No person shall be appointed as an inspector general of a city agency unless such appointment is approved by the commissioner of investigation. The commissioner of investigation shall promulgate standards of conduct and shall monitor and evaluate the activities of inspectors general in the agencies to assure uniformity of activity by them.



## CHAPTER 35

[DEPARTMENT OF] PERSONNEL MANAGEMENT

Sec. 810. Declaration of intent. a. The personnel policies and practices of the city government in furtherance of this charter, the civil service law and rules and other applicable law shall preserve and promote merit and fitness in city employment; ensure that appointments and promotions in city service are made without regard to political affiliation, and without unlawful discrimination based on sex, race, religion, national origin, disability, age or sexual orientation [political affiliation]; and promote and support the efficient and effective delivery of services to the public.

b. Consistent with [subsection] subdivision a of this section, the heads of city agencies shall have such powers, duties and responsibilities for personnel management as they shall require to administer their agencies effectively and to supervise, evaluate, motivate, discipline, provide incentives for and improve the skills of employees of the city.

Sec. 811. Department; personnel director. There shall be a department of personnel, the head of which shall be the personnel director. The personnel director shall have all the powers and duties of a municipal civil service commission provided in the civil service law or in any other statute or local law other than such powers and duties as are by this chapter assigned to the mayor, the city civil service commission or the heads of city

agencies.

Sec. 812. City civil service commission. a. There shall be a city civil service commission, consisting of five members, not more than three of whom shall be members of the same political party. Members shall be appointed by the mayor for overlapping terms of six years. Of the members first appointed, two shall serve for two years and two for four years and one for six years. The members shall be removable in the manner provided for members of a municipal civil service commission in the civil service law. A vacancy in such commission shall be filled in the same manner as regular appointments for the balance of the unexpired term. The mayor shall designate a member as [chairman] chair and vice [chairman] chair, respectively, for one-year terms. Within appropriations for such purposes, the members of the commission shall be reimbursed on a per diem basis for attendance at regularly scheduled meetings and hearings of the commission.

b. The commission may appoint a secretary and such other subordinates as may be necessary within the appropriation therefor.

c. The civil service commission shall have the power to hear and determine appeals by any person aggrieved by any action or determination of the personnel director made pursuant to paragraphs three, four, five, six, seven and eight of [subsection] subdivision a or paragraph five of [subsection] subdivision b of section eight hundred thirteen of this chapter and may affirm, modify, or reverse such action or determination.

Any such appeal shall be taken by application in writing to the commission within thirty days after the action or determination appealed from. The commission shall also have the powers and responsibilities of a municipal civil service commission under section seventy-six of the state civil service law.

d. The commission, on its own initiative, or upon request of the mayor, council or personnel director, shall have the power and duty to conduct reviews, studies, or analyses of the administration of personnel in the city.

Sec. 813. Personnel director; powers and duties. a. The personnel director shall have the following powers and duties in addition to the powers and duties of a municipal civil service commission provided in the civil service law, and those vested in [him] the personnel director as the head of the department, except where any specific power or duty is assigned to the mayor, heads of city agencies or the civil service commission pursuant to this chapter:

(1) To recruit personnel;

(2) To make studies in regard to the grading and classifying of positions in the civil service, establish criteria and guidelines for allocating positions to an existing class of positions, and grade and establish classes of positions;

(3) To schedule and conduct examinations for positions in the civil service;

(4) To establish, promulgate and certify eligible lists in the manner provided in the civil service law, and the rules of

the personnel director;

(5) To determine the appropriateness of eligible lists for the filling of vacancies in the manner provided in the civil service law and the rules of the personnel director;

(6) To investigate applicants for positions in the civil service; to review their qualifications, and to revoke or rescind any certification or appointment by reason of the disqualification of the applicant or appointee under the provisions of the civil service law, and the rules of the personnel director or any other law;

(7) To review any appointment of persons as provisional employees within sixty days after appointment to assure compliance with this charter, the civil service law, and any rule or regulation issued pursuant to this charter or civil service law;

(8) To certify payrolls in accordance with the provisions of the civil service law and the rules of the personnel director;

(9) To keep records regarding candidates for appointment to the civil service and officers and employees in the civil service;

(10) To develop and recommend to the mayor standard rules governing working conditions, vacations and leaves of absence; and career, salary and wage plans providing for the creation, abolition and modification of positions and grades and fixing salaries of persons paid from the city treasury, subject to the provisions of this charter, the civil service law, other



applicable statutes and collective bargaining agreements;

(11) To administer the city-wide incentive, training and development, and other such personnel programs of the city.

b. The personnel director shall have the following powers and duties with respect to the personnel management functions assigned to city agencies pursuant to subdivisions a, b, c, and d of section eight hundred fourteen.

(1) To aid in the development of effective and efficient personnel programs and professional personnel staffs in the agencies of the city; and to convene the personnel officers of the agencies from time to time as a personnel council to consider personnel matters of inter-agency or of city-wide concern;

(2) To approve agency plans and programs pursuant to paragraphs seven, nine and thirteen of [subsection] subdivision a of section eight hundred fourteen;

(3) To establish and enforce standards, guidelines and criteria for the personnel management functions assigned to the agencies and to audit performance by the agencies of such personnel functions;

(4) To reverse or rescind any agency personnel action or decision pursuant to an assignment or delegation of authority in this chapter, upon a finding of abuse after notification to the agency and an opportunity to be heard;

(5) To hear and determine appeals by any person aggrieved by any action or determination of the head of an agency made pursuant to paragraphs three, five, seven and eleven of

subdivision a of section eight hundred fourteen, subject to review by the civil service commission as provided in subdivision c of section eight hundred twelve;

(6) To delegate to the head of an agency personnel management functions assigned to the personnel director where such delegation is not otherwise prohibited by the civil service law, and pursuant to terms and conditions prescribed by the director;

(7) To administer personnel programs of a city-wide nature or common to two or more departments where administration by separate agencies would be impracticable and uneconomical.

c. The personnel director shall promulgate rules and regulations relating to the personnel policies, programs and activities of city government in furtherance of and consistent with the state civil service law and this chapter.

Sec. 814. Agency heads; powers and duties. a. Subject to the civil service law and applicable provisions of this charter, heads of city agencies shall have the following powers and duties essential for the management of their agencies in addition to powers and duties vested in them pursuant to this charter or other applicable law:

(1) To recruit personnel;

(2) To participate with the personnel department in job analyses for the classification of positions;

(3) To allocate individual positions to existing civil service titles;

(4) To allocate individual managerial or executive positions

to managerial assignment levels;

(5) To assist the personnel department in the determination of minimum qualifications for classes of positions and to review and evaluate qualifications of candidates for positions in the civil service;

(6) To assist the personnel director in the planning and preparation of open competitive examinations;

(7) To schedule and conduct tests other than written tests for promotion to competitive class positions;

(8) To determine whether to hold an open competitive or promotion examination to fill positions in the civil service subject to disapproval of the personnel director within thirty days;

(9) To plan and administer employee incentive and recognition programs;

(10) To fill vacant positions within quarterly spending allotments and personnel controls pursuant to section one hundred twenty-three;

(11) To administer and certify eligible lists for classes of positions unique to the agency;

(12) To make appointments to competitive positions from eligible lists pursuant to subsection one of section sixty-one of the state civil service law, which authority shall not be abridged or modified by local law or in any other manner;

(13) To establish and administer performance evaluation programs to be used during the probationary period and for

promotions, assignments, incentives and training;

(14) To conduct training and development programs to improve the skills, performance and career opportunities of employees;

(15) To ensure and promote equal opportunity for all persons in appointment, development and advancement;

(16) To administer employee safety programs;

(17) To maintain personnel records; and

(18) To perform such other personnel management functions as are delegated by the personnel director pursuant to this chapter or that are not otherwise assigned by this chapter.

b. Within one year from the effective date of this chapter, the head of each agency shall prepare and submit to the mayor and the personnel director a plan and schedule for the discharge of the powers and duties assigned in this section. No such plan shall take effect until approved by the mayor.

c. The mayor may modify, suspend, or withdraw for cause any power or duty assigned or delegated to the head of an agency pursuant to paragraphs three, four, seven, eight, and eleven of [subsection] subdivision a of this section.

d. Notification prior to each action or decision of an agency pursuant to this chapter which changes the status of an individual employee, a position, or a class of positions shall be provided to the personnel director. The head of each agency shall certify on each payroll that all personnel actions and transactions of the agency conform with the provisions of the civil service law and this chapter, the rules of the personnel



director and other applicable law.

e. Before any new position in the city service shall be created, the agency head shall furnish the commissioner of finance with a certificate stating the title of the class of positions to which the position is to be allocated. If the position is to be allocated to a new class of positions, the agency head shall request of the personnel director, and the personnel director shall furnish to the agency head and the commissioner of finance, a certificate stating the appropriate civil service title for the proposed position, the range of salary of comparable civil service positions and a statement of the class specifications and line of promotion into which such new position will be placed and any such new position shall be created only with the title approved by the personnel director.

f. The heads of all agencies shall, except as otherwise provided by law, have power to appoint and remove, subject to the provisions of the civil service law, all chiefs of bureaus and all other officers, employees and subordinates in their respective administrations, departments or offices, without reference to the tenure of office of any appointee and to assign them their duties. Nothing herein shall be construed to preclude the mayor from entering into a collective bargaining agreement which provides for a procedure governing the discipline of employees, including their removal, pursuant to Section [1173-8.0] 12-312 of the administrative code of the city of New York for employees of agencies the heads of which are appointed

by the mayor.

g. The heads of city agencies or their designated representatives shall fulfill the requirements for agency participation in matters affecting the management of the agency in advance of collective bargaining negotiations affecting employees of any agency contained in section eleven hundred seventy-seven.

Sec. 815. Management service. a. The personnel director, in consultation with the heads of agencies, shall develop and submit to the mayor a city-wide plan and schedule for the development of qualified and competent technical, professional, management, administrative, and supervisory personnel in the civil service to meet the managerial needs of city government. The mayor shall approve, disapprove or modify the plan within one year after the effective date of this chapter.

b. The city-wide plan shall establish a management service for city agencies and shall provide for:

(1) Membership in the service of employees with significant policy, administrative, supervisory, managerial or professional duties that require the exercise of independent judgment in the scheduling and assignment of work, program management or planning, evaluation of performance or allocation of resources; and including the ranking officials assigned to the local service districts of agencies within community districts and boroughs;

(2) Opportunities for entry into the service by qualified civil servants and qualified persons not employed by the city

consistent with requirements of the civil service law;

(3) A city-wide qualifying test for entry into the service;

(4) Assessments of capacity and potential to perform managerial duties as part of competitive tests for entry into the service and assignments within the service;

(5) A single managerial class of positions for each occupational series within the service with assignment levels within each such class;

(6) A plan for achieving equitable pay scales for members of the service consonant with their duties and responsibilities;

(7) Merit increases, incentive awards, and recognition programs for members of the service;

(8) Performance evaluations for members of the service to be used for assignments, incentive awards, probationary period review, and disciplinary action;

(9) A probationary period not to exceed one year for members of the service;

(10) Management intern programs, and,

(11) Training and career development programs.

c. The personnel director shall conduct city-wide programs and functions related to the management service; assist agencies in the implementation of the management service plan; and review and evaluate agency performance under the plan.

Sec. 816. a. Appointments and promotions. All appointments, promotions and changes in status of persons in the public service of the city shall be made in the manner prescribed by the

constitution of the state and in accordance with the provisions of the civil service law and other provisions of law not inconsistent therewith nor with this charter.

b. Whenever qualifications for the appointment of persons to public office are prescribed by law, the appointing officer shall, upon making such appointment, file with the civil service commission a certificate that such appointment complies with such law.

Sec. 817. Power of investigation. The personnel director shall have the power to make investigations concerning all matters touching the enforcement and effect of the provisions of the civil service law insofar as it applies to the city and the rules and regulations prescribed thereunder, or concerning the actions of any examiner or subordinate of the department, or of any officer or employee of the city or of any county within the city, in respect to the execution of the civil service law; and in the course of such investigations the personnel director shall have the power to administer oaths, to compel the attendance of witnesses, and to examine such persons as deemed necessary.

Sec. 818. No compensation to unauthorized employee. No officer of the city whose duty is to sign or countersign warrants shall draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the commissioner of finance or other disbursing officer of the city for payment of salary to any person in its service whose appointment or retention has not been in accordance with the civil service law and the valid rules



in force thereunder.

Sec. 819. Examination for licenses. The personnel director shall, unless otherwise provided by law, have power, upon request of any person charged with the duty of issuing licenses or permits, to conduct, under rules and regulations to be established by the personnel director, examinations and tests to determine the qualifications of persons applying for such licenses or permits. The personnel director shall certify to the person having power to issue the license or permit the result of any such examination or test.

[Sec. 820. Certification for new positions. Before any new position in the city service shall be created, the agency head shall furnish the commissioner of finance with a certificate stating the title of the class of positions to which the position is to be allocated. If the position is to be allocated to a new class of positions, the agency head shall request of the personnel director and the personnel director shall furnish to the agency head and the commissioner of finance a certificate stating the appropriate civil service title for the proposed position, the range of salary of comparable civil service positions and a statement of the class specifications and line of promotion into which such new position will be placed and any such new position shall be created only with the title approved by the personnel director.]

[Sec. 821. Political activities forbidden. No member or officer or employee of the department or commission shall hold

office or serve as a member of any committee in any political organization or association, nor shall he serve as a delegate to any political convention. Any member, officer or employee violating this provision shall forfeit his office or employment.]

[Sec. 822. Condition precedent to employment. a. Notwithstanding the provisions of any local law, rule or regulation to the contrary, every person seeking employment with the city of New York or any of its agencies regardless of civil service classification or status shall sign an agreement as a condition precedent to such employment to the effect that if he is or becomes a nonresident individual as that term is defined in section T46-6.0 of the administrative code of the city of New York or any similar provision of such code, during his employment by the city, he will pay to the city an amount by which a city personal income tax on residents computed and determined as if he were a resident individual, as defined in such section, during such employment, exceeds the amount of any city earnings tax and city personal income tax imposed on him for the same taxable period.

b. Whenever any provision of this charter; the administrative code of the city of New York or any rule or regulation promulgated pursuant to such charter or administrative code employs the term "salary" "compensation," or any other word or words having a similar meaning, or compensation of any employee of the city of New York, undiminished by any amount payable pursuant to subdivision a of this section.]

Sec. 820. Officers or employees designated to serve in exempt civil service positions. a. Notwithstanding any provision in this charter to the contrary, the mayor or head of an agency may designate any officer or employee occupying a position in the competitive class of the civil service to serve in a position in the exempt class, and in such case, the officer or employee so designated shall thereupon enter upon and exercise all the powers and duties and receive the salary of such exempt position, and shall retain all the rights, privileges and status of such officer or employee's position in the competitive class.

b. The appointment of any person chosen to fill the position thus left vacant shall be temporary and shall terminate upon the return of such officer or employee to such position as provided in subdivision e of this section.

c. Such designation shall be in writing and shall be filed and remain of record in the office of such agency, in the office of the personnel director and in the office of the mayor and shall remain in force until revoked by the mayor or head of such agency, as the case may be.

d. Service in such position in the exempt class shall be credited as service in the competitive class and the status of such officer or employee in respect to pensions or otherwise shall not be adversely affected by such designation.

e. Upon the termination of the officer or employee's services in such exempt position, except by dismissal for cause in the manner provided in section seventy-five of the Civil

Service Law, such officer or employee shall immediately and without further application return to the position in the competitive class with the status, rights, privileges and salary enjoyed immediately prior to the designation to the position in the exempt class.



CHAPTER 37  
ART COMMISSION

Sec. 851. Constitution and appointment. a. There shall be an art commission the members of which shall be the mayor, who may appoint a person to represent him and replace such representative at his pleasure, the president of the Metropolitan Museum of Art, the president of the New York Public Library, president of the Brooklyn Museum, one painter, one sculptor, one architect, and one landscape architect, all of whom shall be residents of the city, and three other residents of the city no one of whom shall be a painter, sculptor, architect, landscape architect or active member of any other profession in the fine arts.

b. All the members of the commission shall serve without compensation for their service on the commission. Those whose service is not ex officio shall be appointed by the mayor from a list of not less than three times the number to be appointed, such list to be submitted by the Fine Arts Federation of New York. In case the Fine Arts Federation shall fail to present a list of nominees within three months from the time when a vacancy occurs, the mayor shall appoint without such nomination. In case the mayor shall fail to appoint within one year from the time when a vacancy occurs, such vacancy shall be filled by the commission for any balance of the unexpired term.

c. In all matters which come before the commission pertaining

to work under the special charge of an agency, the head of such agency may act as a member of the commission. Each president of an institution who is an ex officio member may, by a writing filed with the executive director of the commission, appoint a trustee of the institution of which he is president to serve in his place as member of the commission. Such appointment shall be revocable at any time by such president and shall terminate whenever he ceases to be president.

Sec. 852. Terms of members; vacancies. All appointments of members of the commission whose service is not ex officio shall be for a term of three years commencing at the expiration of the terms of the present incumbents, except that appointments to fill vacancies shall be for the unexpired term. All vacancies shall be filled in accordance with the provisions of section eight hundred fifty-one.

S 853. Officers; procedure; expenses. a. The commission shall elect a president, vice-president and secretary from its own members, whose terms of office shall be for one year and until their successors are elected and have qualified. The commission shall keep minutes of its proceedings and adopt its own rules of procedure, which shall be public documents. Six commissioners, excluding any who may be acting temporarily as representatives of an agency pursuant to subdivision c of section 851, shall constitute a quorum.

b. The offices and staff necessary for the commission to fulfill its obligations shall be provided for the commission, and

the amount of its necessary expenses shall annually be provided in the budget.

S 854. Approvals by the commission. a. The term "work of art" as used in this chapter shall apply to and include all sculptures, paintings, mural decorations, mosaics, stained glass, statues, carvings or castings in high or low relief, inscriptions, monuments, and fountains installed or erected or to be installed or erected upon or over land belonging to the city whether the works of art be the property of the city itself or of an institution, corporation or private individual, and whether intended for ornament, commemoration or actual use.

b. The term "structure" as used in this chapter shall apply to and include all buildings, walks, bridges and viaducts and their approaches, exterior walls, arches, docks, piers, gates, fences, steps, curbing, distinctive pavings, benches, lamps, posts, traffic signals, and signage other than signage guiding, directing or otherwise regulating and controlling traffic erected pursuant to chapter seventy one of the charter.

c. On request or on its own initiative, the art commission may consult with and advise any such agency as to the suitability of preliminary plans for any work of art under consideration for acquisition or the design or location of any work of art or any structure under consideration for installation or erection in, on or over any property of the city.

d. No work of art shall hereafter become the property of the city by gift or otherwise, or be purchased, commissioned,

contracted for, accepted, erected or placed in or upon any public building, or allowed to be placed on or extend into or over any public street, avenue, highway, square, park, dock or pier or other public place belonging to the city, unless such work of art or a design of the same, accompanied by a specification and an estimate of the cost thereof, a plan showing its proposed location, and, if the commission deems it necessary or desirable, also a model, and any other pertinent information as may be required by the commission including a plan in such detail as the commission may require for the maintenance or conservation thereof, shall first have been submitted to the commission by the agency having jurisdiction, and such work of art or the design thereof, its location, and the plan for its maintenance or conservation, shall have been approved in writing by the commission. The commission shall have authority to bar final payment for the purchase or erection of any such work of art if the president or executive director of the commission certifies that the work of art has not been completed substantially in accordance with the approval of the commission.

e. No structure, except as provided in subdivision f, shall be erected or placed upon land belonging to the city, and no arch, bridge, structure or approach which is the property of any corporation or private individual shall extend over or upon any street, avenue, highway, park or public place belonging to the city, and no new lines, grades or plotting or layout of public ways and grounds shall be accepted or work in pursuance thereof



commenced unless the design thereof, accompanied by an estimate of cost and a plan showing the proposed location, shall have been submitted to the commission and the design, and in the case of a building or other structure its location in relation to existing or projected developments in the vicinity, shall have been approved in writing by it. If exterior wall, fences, gates, steps, curbing, distinctive paving, benches, lamps, posts, signage, traffic signals, or other structures of the same type and design are considered for installation at various locations, the commission may approve the type and design with specifications as to the types of location for which they would be approved as suitable without passing on each individual installation. The commission shall have the authority to bar final payment for such structure, or for such lines, grades or plotting or layout of public ways and grounds if the president or executive director of the commission certifies that the work has not been erected or placed substantially in accordance with the approval of the commission.

f. In the case of any building or other structure the total estimated cost of which shall not exceed two hundred fifty thousand dollars, the approval of the commission pursuant to this section shall not be required if the mayor or the council shall in writing request the commission not to act. Nothing in this section shall be construed as intended to impair the concurrent power of the commissioner of parks and recreation to refuse his consent to the erection or acceptance of any public monument or

memorial or other work of any sort within any park, square or other public place under his jurisdiction.

g. Designs for all works of art or structures intended for temporary use in a fixed location during a period of more than one year, shall be subject to the same forms of procedure as those adopted for permanent use, but the approval of such designs shall be for a period to be determined by the commission, not to exceed three years, after which the commission shall either extend the period or order the removal of the work of art or structure.

Sec. 855. Time for decision limited. If the commission shall fail to take action upon any matter legally submitted to it within sixty days after such submission, its action shall be deemed unnecessary.

Sec. 856. Maintenance, repair, removal, relocation or alteration of works of art. a. The commission shall periodically examine all works of art belonging to the city, shall make, request or approve detailed recommendations for their cleaning, maintenance and repair, and shall have general and curatorial supervision over such works of art belonging to the city and their cleaning, maintenance and repair. Except as provided in subdivision d, no cleaning, restoration, repair, alteration, removal or relocation of any work of art shall be contracted for, commenced, or prosecuted, unless approved in writing by the commission. Except as provided in subdivision d, the commission shall have the authority to bar final payment for such work if

the president or the executive director of the commission certifies that the work has not been completed substantially in accordance with the commission's approval.

b. If a city agency fails to expend funds allocated for the proper maintenance of works of art, or allows undue deterioration to occur which threatens the visual and structural integrity of any work of art under its jurisdiction, the commission shall be authorized to review the procedures governing the care of said work and may request the agency to relocate such work to a suitable location approved by the commission.

c. Before any work of art is repaired, altered, demolished, removed, or relocated, the art commission shall be notified and given an opportunity, not to exceed sixty days, to pass on the disposition of such work of art. The commission may, with the consent of the mayor, order the work of art to be preserved. Except as provided in subdivision d, no work of art shall be altered, demolished, removed or relocated without the written approval of the commission.

d. In case the immediate removal, repair or relocation of any existing work of art shall be deemed necessary by the mayor, he may require the commission to pass on its disposition within an emergency period, which shall be not less than three business days after the receipt of written notice from him. In case of the commission's failure to act within such period, he may authorize the removal, repair or relocation without such action.

Sec. 857. Advisory oversight of works of art. a. The art

commission shall have general advisory oversight over all works of art belonging to the city. It shall advise the agencies having jurisdiction over them as to methods and procedures for their proper maintenance.

b. The commission shall maintain and make available for inspection a register of (i) works of art in the city's collection and which have been preserved and (ii) works of art in the city's collection which are available as determined by either the agency or the commission, for a new use or relocation. Every agency shall maintain a list of works of art installed in or erected upon city property assigned for use by the agency and shall notify the commission whenever a work of art becomes available, in its judgment, for a new use or relocation.

Sec. 858. Notice of agenda. A printed calendar of items to be heard, which may be subject to later amendment, shall be made available to the public and forwarded to members of the council at least three days in advance of the meeting.



CHAPTER 44  
CITY SHERIFF

Sec. 1031. City sheriff.--There shall be a city sheriff who shall be appointed by the mayor after competitive examination conducted by the personnel director in accordance with the civil service law.

Sec. 1032. Functions, powers and duties. Except as otherwise provided by law, the functions, powers and duties formerly exercised by the sheriffs of the several counties shall remain with the city sheriff.

CHAPTER 45CITY ADMINISTRATIVE PROCEDURE ACT

Sec. 1041. Definitions. As used herein, the term

1. "Adjudication" means a proceeding in which the legal rights, duties or privileges of named parties are required by law to be determined by an agency on a record and after an opportunity for a hearing.

2. "Agency" means any one or more of the elected or appointed officers provided for in this charter and any other official or entity which is acting 1) under the direction of one or more of such officers, 2) under the direction of one or more other officials who are appointed by, or appointed on the recommendation of, such officers, or 3) under the direction of a board, the majority of whose members are appointed by, or appointed upon the recommendation of, one or more of such officers, but shall not include the city council.

3. "Compilation" means the Compilation of city rules required to be published under section one thousand forty-five of this chapter.

4. "Law" means state and local law, this charter, and rules issued pursuant thereto.

5. "Rule" means the whole or part of any statement or communication of general applicability that (i) implements or applies law or policy, or (ii) prescribes the procedural requirements of the agency. including an amendment, suspension,

or repeal of any such statement or communication,

a. "Rule" shall include, but not be limited to, any statement or communication which prescribes (i) standards which, if violated, may result in a sanction or penalty; (ii) a fee to be charged by or required to be paid to an agency; (iii) standards for the issuance, suspension or revocation of a license or permit; (iv) standards for any product, material, or service which must be met before manufacture, distribution, sale or use; (v) standards for the procurement of goods and services; (vi) standards for the disposition of public property or property under agency control; or (vii) standards for the granting of loans or other benefits.

b. "Rule" shall not include any (i) statement or communication which relates only to the internal management or personnel of the agency which does not materially affect the rights of or procedures available to the public; (ii) form, instruction, or statement or communication of general policy, which in itself has no legal effect but is merely explanatory; (iii) statement or communication concerning the allocation of agency resources or personnel; (iv) statement or communication for guiding, directing or otherwise regulating vehicular and pedestrian traffic, including but not limited to any statement or communication controlling parking, standing, stopping or a construction detour, the contents of which is indicated to the public in signs, signals, markings and similar devices, the determination and installation of which is based on engineering

or other technical considerations not involving substantial policy considerations; (v) statement or communication effecting a non-continuous closing of a street; or (vi) statement or communication adopted pursuant to sections fifty-one, one hundred ninety-seven-a, one hundred ninety-seven-c except pursuant to subdivision g of section one hundred ninety-seven-c, one hundred ninety-nine, two hundred, two hundred one, two hundred two and seven hundred five of this charter.

Sec. 1042. Regulatory agenda. a. Each agency shall publish by the first day of May annually, a regulatory agenda which shall contain:

1. a brief description of the subject areas in which it is anticipated that rules may be promulgated during the next fiscal year, including a description of the reasons why action by the agency is being considered;

2. a summary, to the extent known, of the anticipated contents of each such proposed rule, its objectives and legal basis;

3. a description of the types of individuals and entities likely to be subject to the rule;

4. an identification, to the extent practicable, of all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule; and

5. an approximate schedule for adopting the proposed rule, and the name and telephone number of an agency official knowledgeable



about each subject area involved.

b. Each agency the single head of which is appointed by the mayor shall forward to the mayor its regulatory agenda. The mayor shall review such regulatory agenda to determine whether regulations contemplated by city agencies are consistent with the policy objectives of the administration.

c. Failure to include an item in a regulatory agenda shall not preclude action thereon. If rulemaking is undertaken on a matter not included in the regulatory agenda the agency shall include in the notice of proposed rulemaking the reason the rule was not anticipated. The inadvertent failure to provide the reason such rule was not included in the regulatory agenda shall not serve to invalidate the rule.

Sec. 1043. Rulemaking. a. Authority. Each agency is empowered to adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law. No agency shall adopt a rule except pursuant to this section. Each such rule shall be simply written, using ordinary language where possible.

b. Notice. 1. Each agency shall publish the full text of the proposed rule in the City Record at least thirty days prior to the date set for a public hearing to be held pursuant to the requirements of subdivision d of this section or the final date for receipt of written comments, whichever is earlier. A proposed rule amending or repealing an existing rule shall contain in brackets any part to be repealed and shall have

underlined or italicized any new part to be added. Such published notice shall include a draft statement of the basis and purpose of the proposed rule, the statutory authority, including the particular sections and subdivisions upon which the action is based, the time and place of public hearing, if any, to be held or the reason that a public hearing will not be held, and the final date for receipt of written comments. If the proposed rule was not included in the regulatory agenda, such notice shall also include the reason the rule was not anticipated, as required in subdivision c of section one thousand forty-two of this chapter.

2. Copies of the notice shall be transmitted to the council and the corporation counsel, and mailed to each council member, the chairs of all community boards, the news media and civic organizations; provided that an inadvertent failure to fully comply with the notice requirements of this paragraph shall not serve to invalidate any rule.

3. (a) News media, for the purposes of this subdivision, shall include (i) all radio and television stations broadcasting in the city of New York, all newspapers published in the city of New York having a city-wide or borough-wide circulation, and any newspaper of any labor union or trade association representing an industry affected by such rule, and (ii) any community newspaper or any other publication that requests such notification on an annual basis.

(b) Civic organizations, for the purposes of this subdivision, shall include any city-wide or borough-wide organization or any

labor union, trade association or other group that requests such notification on an annual basis.

c. Review of statutory authority. Prior to the date of public hearing or prior to the date for receipt of public comments if no hearing is held, the corporation counsel shall review the proposed rule to determine whether it is within the authority delegated by law to the agency proposing the rule. If the corporation counsel determines that the proposed rule is not within the agency's delegated authority, the corporation counsel shall, by the date set for final receipt of public comments, notify the agency in writing. This subdivision shall not apply to the rules adopted by the board of estimate.

d. Opportunity for and consideration of public comment. The agency shall provide the public an opportunity to comment on the proposed rule (i) through submission of written data, views, or arguments, and (ii) at a public hearing unless it is determined by the agency in writing, which shall be published in the notice of proposed rulemaking in the City Record, that such a public hearing on a proposed rule would serve no public purpose. All written comments and a summary of oral comments concerning a proposed rule shall be placed in a public record and be made readily available to the public as soon as practicable and in any event within a reasonable time, not to be delayed because of the continued pendency of consideration of the proposed rule. After consideration of the relevant comments presented, the agency may adopt a final rule pursuant to subdivision e of this section.

Such final rule may include revisions of the proposed rule, and such adoption of revisions based on the consideration of relevant comments shall not require further notice and comment pursuant to this section.

e. Effective date. 1. No rule shall be effective until

(a) the rule is filed by the agency with the corporation counsel for publication in the Compilation,

(b) the rule and a statement of basis and purpose is transmitted to the council for its information, and

(c) the rule and a statement of basis and purpose have been published in the City Record and thirty days have elapsed after such publication.

2. A rule shall be void if it is not published in the next supplement to the Compilation in which its publication is practicable; provided, however, that in the case of an inadvertent failure to publish a rule in such supplement, the rule shall become effective as of the date of its publication, if it is published within six months of the date the corporation counsel receives notice of its omission; and further provided that any judicial or administrative action or proceeding, whether criminal or civil, commenced under or by virtue of any provision of a rule voided pursuant to this section and pending prior to such voidance, may be prosecuted and defended to final effect in the same manner as they might if such rule had not been so voided.

f. Petition for rules. Any person may petition an agency to



consider the adoption of any rule. Within sixty days after the submission of a petition, the agency shall either deny such petition in writing, stating the reasons for denial, or state the agency's intention to initiate rulemaking, by a specified date, concerning the subject of such petition. Each agency shall prescribe by rule the procedure for submission, consideration and disposition of such petitions. In the case of a board, commission or other body that is not headed by a single person, such rules of procedure may authorize such body to delegate to its chair the authority to reject such petitions. Such decision shall be within the discretion of the agency and shall not be subject to judicial review.

g. Maintenance of comments. Each agency shall establish a system for maintaining and making available for public inspection all written comments received in response to each notice of rulemaking.

h. Emergency procedures. 1. Notwithstanding any other provision of this section, an agency may adopt a rule prior to the notice and comment otherwise required by this section if the immediate effectiveness of such rule is necessary to address an imminent threat to health, safety, property or a necessary service. A finding of such imminent threat and the specific reasons for the finding must be made in writing by the agency adopting such rule and shall be approved by the mayor before such rule may be made effective. In the event that an elected official other than the mayor has the authority to promulgate

rules, such official may make such findings without prior mayoral approval. The rule and accompanying finding shall be made public forthwith and shall be published in the City Record as soon as practicable.

2. A rule adopted on an emergency basis shall not remain in effect for longer than sixty days unless the agency, with the prior approval of the mayor, finds that an extension of such rule on an emergency basis is necessary for an additional sixty days; provided that no further such finding of an emergency may be made with respect to the same or a substantially similar rule, and the agency has initiated notice and comment otherwise required by this section.

Sec. 1044. Review of previously adopted rules. a. Submission of previously adopted rules. 1. By the tenth day of August, nineteen hundred eighty-nine, each agency shall send to the corporation counsel a copy of each rule, as defined in subdivision five of section one thousand forty-one of this chapter, in force as of the first day of January of nineteen hundred eighty-nine. Each such rule shall be identified by the agency as one of the following:

- (a) a rule which should be continued in its present form;
- (b) a rule which should be continued with amendments; or
- (c) a rule which should be repealed.

2. Any amendment or repeal of a rule described in paragraph one of this subdivision, shall be subject to the provisions set forth in section one thousand forty-three of this chapter.

b. In regard to all rules submitted pursuant to subdivision a of this section, the corporation counsel shall

1. include such rules in the Compilation required to be published pursuant to section one thousand forty-five of this chapter; provided, however, that each rule which the agency identifies as a rule which should be continued but with amendments, and each rule which the agency identifies as a rule which should be repealed, shall be published in the Compilation with an appropriate notation as to the agency's comments and intentions. Such notations shall be provided for informational purposes only and such rule in its present form shall remain in full force and effect until and unless such rule is amended or repealed pursuant to the procedures set forth in section one thousand forty-three of this chapter, and

2. submit to the City Record for expeditious publication a list of rules submitted pursuant to subdivisions a and e of this section, except for rules contained in the health code. Such list shall include for each rule a short descriptive title, as well as any identifying names, numbers, adoption dates or similar information regarding such rule; and an indication of the agency's intention to continue such rule without amendments, to continue it with amendments or to repeal it.

c. No rule, as defined in subdivision five of section one thousand forty-one of this chapter, which is in force as of the first day of January, nineteen hundred eighty-nine shall have any force or effect on or after the tenth day of August, nineteen

hundred and eighty-nine unless it is submitted by the agency to the corporation counsel by such date.

d. Except as provided in subdivision e, no rule adopted by any agency prior to the effective date of this chapter shall have any force or effect after the first day of March, nineteen hundred ninety unless it is included in the Compilation required to be published by that date pursuant to section one thousand forty-five of this chapter; provided however that in the case of an inadvertent failure to publish a rule in such Compilation, the rule shall become effective as of the date of its publication, if it is published within six months from the date the corporation counsel received notice of its omission, and further provided that any judicial or administrative action or proceeding, whether criminal or civil, commenced under or by virtue of any provision of a rule voided pursuant to this section and pending prior to such voidance, may be prosecuted and defended to final effect in the same manner as they might if such rule had not been so voided.

e. On or before a date one hundred eighty days after the date that the Compilation required to be published pursuant to section one thousand forty-five of this chapter is first published, any person may submit to the agency involved a copy or a description of a rule which such person believes to be in force as of the effective date of this chapter. Upon the receipt of a description or copy of such a rule, the agency shall endeavor to verify the existence of such rule and upon identifying such rule,



if such rule was in force and effect as of the effective date of this chapter and has not been submitted to the corporation counsel pursuant to subdivision a of this section, the agency shall take the actions required pursuant to subdivision a of this section, and notwithstanding the provisions of subdivisions c and d of this section, such rule shall remain in force and effect until or unless amended or repealed pursuant to section one thousand forty three of this chapter.

Sec. 1045. Compilation of city rules. The corporation counsel shall publish a Compilation of city rules and thereafter keep such Compilation up to date through cumulative supplements issued at least every six months and at such other times as the corporation counsel shall determine. The Compilation and its supplements shall include every rule currently in effect, and such other information as the corporation counsel deems necessary and appropriate for full understanding of such rule. The Compilation and its supplements shall be organized by agency and indexed by subject matter. An indexed edition of the Compilation shall be published by the first day of March, nineteen hundred and ninety and updated and republished by the first day of March of every fourth year thereafter.

Sec. 1046. Adjudication. Where an agency is authorized to conduct an adjudication, it shall act, at a minimum, in accordance with the provisions set forth below. The parking violations bureau shall not be subject to the requirements of this section.

a. Notice. All parties shall be given reasonable notice of such hearing, which shall include:

1. a statement of the nature of the proceeding and the time and place it will be held, if applicable;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held, and a reference to the particular sections of the law and rules involved; and

3. a short and plain statement of the matters to be adjudicated, including reference to the particular sections of law and rule involved.

b. Notice of agency procedures. Agencies shall adopt rules governing agency procedures for adjudications and appeals. Agencies shall make a copy of any such rule available, upon request, to any party who has received notice of violation of the laws, rules or orders enforced by the agency.

c. Hearing. 1. All parties shall be afforded an opportunity for a hearing within a reasonable time. At the hearing the parties shall be afforded due process of law, including the opportunity to be represented by counsel, to issue subpoenas or request that a subpoena be issued, to call witnesses, to cross-examine opposing witnesses and to present oral and written arguments on the law and facts. Adherence to formal rules of evidence is not required. No ex parte communications relating to other than ministerial matters regarding a proceeding shall be received by a hearing officer, including internal agency directives not published as rules.

2. Findings of fact shall be based exclusively on the record of the proceeding as a whole. Except as otherwise provided for by state or local law, the party commencing the adjudication shall have the burden of proof.

3. The hearing shall be transcribed or recorded and a copy of the transcript or record, or any part thereof, shall be made available to any party to the hearing upon request therefor. A typed or recorded copy of such transcript shall be provided upon request for a reasonable cost.

d. Informal disposition. Unless precluded by law, informal disposition may be made of any matter which is the subject of an adjudication by methods of alternative dispute resolution, stipulation, agreed settlement, or consent order.

e. Hearing officer. Except as otherwise provided for by this charter the person presiding at a hearing shall be assigned solely to adjudicative and related duties. Except as otherwise provided for by the rules of the agency, such hearing officer shall make final findings of fact and shall not make any final decision, determination, or order, but shall only recommend such, and shall forward such recommendation and the record of the adjudication to the agency, who may adopt, reject or modify any such recommended decision, determination or order.

f. Recommendation or decision. Any recommended decision, final decision, determination or order shall be in writing, or stated in the record if the parties are present, and shall include findings of fact and conclusions of law. A copy of any

written recommended decision, final decision, determination, or order shall be delivered or mailed forthwith to each party.

Sec. 1047. Declaratory ruling. On the written petition of any person, an agency may issue a written declaratory ruling on the applicability of any rule adopted by it, to any person, property, or state of facts. A declaratory ruling shall be binding only with respect to the person who makes the petition and only with respect to the stated facts contained in the petition.

Sec. 1048. Office of administrative trials and hearings.

a. There shall be an office of administrative trials and hearings which shall conduct adjudicatory hearings for all agencies of the city unless otherwise provided for by executive order, rule, law or pursuant to collective bargaining agreements. The office shall be directed by the chief administrative law judge, who shall be an attorney admitted to practice for at least five years in the state of New York. The chief administrative law judge shall be appointed by the mayor.

b. Powers of the chief administrative law judge.

1. The chief administrative law judge shall have authority to direct the office with respect to its management and structure and to appoint a staff of administrative law judges. Each administrative law judge shall be an attorney admitted to practice in the state of New York for at least five years. Each administrative law judge shall be appointed for a term of five years removable only for cause after notice and opportunity for a



hearing on a record.

2. The chief administrative law judge shall establish rules for the conduct of hearings, in accordance with the requirements of this chapter.

3. In the conduct of an adjudication, an administrative law judge may:

(a) hold conferences for the settlement or simplification of the issues;       —

(b) administer oaths and affirmations, examine witnesses, rule upon offers of proof, receive evidence, and oversee and regulate discovery procedures ;

(c) upon the request of an agency or any party, or upon the administrative law judge's own volition, subpoena the attendance of witnesses and the production of books, records, or other information;

(d) regulate the course of the hearing in accordance with agency rules and this chapter, provided that if agency rules are silent as to a particular matter, the rules of the office of administrative trials and hearings shall apply;

(e) dispose of procedural requests or similar matters;

(f) make recommended or final findings of fact or decisions, determinations or orders, as authorized by law;

(g) take any other action authorized by law or agency rule consistent therewith.

## CHAPTER 46

## [PERMANENT PERSONAL REGISTRATION]

ELECTIONS AND VOTER ASSISTANCE

[Sec. 1061. Permanent personal registration. The system of permanent personal registration set forth in article fifteen of the election law is hereby continued.]

Sec. 1051. Department; board. There shall be a department of campaign finance and voter assistance.

Sec. 1052. Campaign finance board. a. 1. There shall be a campaign finance board consisting of five members. Two members of the board shall be appointed by the mayor, provided that not more than one such member shall be enrolled in any one political party, and two members shall be appointed by the vice-chairman of the council, provided that not more than one such member shall be enrolled in any one political party, and one member, who shall be the chairperson, shall be appointed by the mayor after consultation with the vice-chairman. The members shall first be appointed to serve as follows:

(a) one member appointed by the vice-chairman for a term of one year;

(b) one member appointed by the mayor for a term of two years;

(c) one member appointed by the vice chairman for a term of three years;

(d) one member appointed by the mayor for a term of four

years; and

(e) the chairperson for a term of five years.

Each term shall commence on April first, nineteen hundred eighty-eight. Thereafter, each member shall be appointed for a term of five years by the mayor or the vice-chairman, according to the original manner of appointment. In case of a vacancy in the office of a member, a member shall be appointed to serve for the remainder of the unexpired term by the mayor or the vice-chairman, according to the original manner of appointment. Each member shall be a resident of the city, registered to vote therein. Each member shall agree not to make contributions to any candidate for nomination for election, or election, to the office of mayor, president of the city council, comptroller, borough president, or member of the council which in the aggregate are in excess of the maximum contribution applicable to such office pursuant to any local law establishing a voluntary system of campaign finance reform. No member shall serve as an officer of a political party, or be a candidate, or participate in any capacity in a campaign by a candidate, for nomination for election or election to the office of mayor, president of the city council, comptroller, borough president or member of the city council. Officers and employees of the city or any city agency, lobbyists required to file a statement of registration under section 3-213 of the administrative code and the employees of such lobbyists shall not be eligible to be members of the board.

2. The members of the board shall be compensated at the rate of one hundred dollars per calendar day when performing the work of the board.

3. The board may employ necessary staff, including an executive director and a counsel, and make necessary expenditures subject to appropriation.

4. No member of the campaign finance board shall be removed from office except for cause and upon notice and hearing.

5. The board shall have the power to investigate all matters relating to the performance of its functions and any other matter relating to the proper administration of any voluntary system of campaign finance reform established by local law and for such purposes shall have the power to require the attendance and examine and take the testimony under oath of such persons as it shall deem necessary and to require the production of books, accounts, papers and other evidence relative to such investigation.

6. The board shall publicize, as it deems appropriate, the names of candidates for nomination or election to the office of mayor, president of the city council, comptroller, borough president, or city council who violate any of the provisions of any voluntary system of campaign finance reform established by local law.

7. The board may render advisory opinions with respect to questions arising under any local law establishing a voluntary system of campaign finance reform. Such advisory opinions may be



rendered on the written request of a candidate, an officer of a political committee or member of the public, or may be rendered on its own initiative. The board shall make public its advisory opinions. The board shall develop a program for informing candidates and the public as to the purpose and effect of the provisions of any voluntary system of campaign finance reform established by local law.

8. The board shall have the authority to promulgate such rules and provide such forms as it deems necessary for the administration of any voluntary system of campaign finance reform established by local law. The board shall promulgate regulations concerning the form in which contributions and expenditures are to be reported, the periods during which such reports must be filed and the verification required. The board shall require the filing of reports of contributions and expenditures for purposes of determining compliance with any contribution or expenditure limitations provided in any local law establishing a voluntary system of campaign finance reform, provided that the schedule established by the board for such filings shall be in accordance with the schedule specified by the state board of elections for the filing of campaign receipt and expenditure statements.

9. The board shall develop a computer data base that shall contain all information necessary for the proper administration of this chapter including information on contributions to and expenditures by candidates and their authorized committees and distributions of moneys from the campaign finance funds. Such

data base shall be accessible to the public.

10. The board may take such other actions as are necessary and proper to carry out the purposes of any local law establishing a voluntary system of campaign finance reform. If at any time, the board determines that the amount of money in any special fund or funds established by any such local law, establishing a voluntary system of campaign finance reform, to fund a system of optional public campaign financing for candidates abiding by the requirements of such law, is insufficient, or is likely to be insufficient, for payment to such participating candidates pursuant to such law for the elections to be held in nineteen hundred eighty-nine, it shall report this determination to the commissioner of finance, along with its estimate of the additional amount which will be necessary to provide such participating candidates with financing pursuant to such law and a detailed statement of the assumptions and methodologies on which such estimate is based. Not more than four days after receiving such estimate and supporting materials, the commissioner of finance shall transfer an amount equal to such estimate from the general fund to such special fund or funds. All monies transferred to such special fund or funds shall not be considered revenues of the city and payments from such fund or funds shall be made without appropriation and shall not be included in the expense budget of the city. The comptroller shall have custody of such fund or funds on behalf of the board and shall have the power to invest the monies of such fund or

funds in the manner in which the city is authorized to invest its funds and shall deposit the monies of the fund or funds in such deposit banks as have been designated by the banking commission pursuant to section fifteen hundred twenty-four of this charter. The comptroller shall submit monthly reports to the board regarding the status of the fund or funds and more frequent reports when the board requires. Monies of the fund or funds shall be paid out by the comptroller only on warrant of the board.

b. The board shall take such actions as it deems necessary and appropriate to improve public awareness of the candidates, proposals or referenda in all elections in which there are contested elections for the offices of mayor, president of the council, borough presidents, comptroller, or city council or ballot proposals or referenda pursuant to this charter or the municipal home rule law, including but not necessarily limited to the publication of a non-partisan, impartial voters guide providing information on candidates, ballot proposals and referenda, and the distribution of one copy of such guide to each household in which there is at least one registered voter eligible to vote in the election involved.

Sec. 1053. Voters guide. Each voters guide published by the board shall contain: (a) material explaining the date and hours during which the polls will be open for that election; when, where, and how to register to vote; when a citizen is required to reregister; when, where, and how absentee ballots are obtained and used; instructions on how to vote; maps showing the boundaries of council districts; and any other general information on voting deemed by the board to be necessary or useful to the electorate or otherwise consistent with the goals of this chapter; (b) such tables of contents, graphics, and other

materials which the board determines will make the voters guide easier to understand or more useful for the average voter; (c) biographical information on each candidate, including but not limited to name, party affiliation, present and previous public offices held, present occupation and employer, prior employment and other public service experience, educational background, and a listing of major organizational affiliations and endorsements; (d) concise statements by each candidate of his or her principles, platform or views; and (e) where there is a ballot proposal or referendum, concise statements explaining such proposal or referendum and an abstract of each such proposal or referendum. The guide shall be prepared in plain language using words with common and everyday meanings. No later than the first day of January of nineteen hundred eighty nine, the board shall promulgate such rules as it deems necessary for the preparation and publication of the guide in English, Spanish and any other languages the board determines to be necessary and appropriate, and for the distribution of the guide. The purpose of such rules shall be to ensure that the guide and its distribution will serve to fully, fairly and impartially inform the public about the issues and candidates appearing on the ballot.

Sec. 1054. Voter assistance commission. a. There shall be, in the department, a voter assistance commission, the head of which shall be the chair of the campaign finance board, and which shall consist of sixteen members and which shall advise all appropriate officials on matters relating to voter registration and voter



participation in New York city. The commission shall include the first deputy mayor, or if there is no first deputy mayor, such other deputy mayor as the mayor shall designate to serve on this commission, the director of the office of management and budget, the president of the board of education, the president of the council, the executive director of the board of elections, the corporation counsel and the chair of the campaign finance board. In addition there shall be nine members broadly representative of (1) groups that are underrepresented among those who vote and or among those who are registered to vote, (2) community, voter registration, civil rights, and disabled groups, and (3) the business community. Each of these members shall serve for a three year term, with three to be appointed by the mayor and the remaining six to be appointed by the council. Of the three members initially appointed by the mayor, one shall serve for a term which expires on June thirtieth, nineteen hundred ninety, one shall serve for a term which expires on June thirtieth nineteen hundred ninety-one, and one shall serve for a term which expires on June thirtieth nineteen hundred ninety-two. Of the six members initially appointed by the council, two shall serve for terms expiring on June thirtieth hundred nineteen ninety, two shall serve for terms expiring June thirtieth nineteen hundred ninety-one, and two shall serve for terms expiring on June thirtieth nineteen hundred ninety two. The members of the commission shall serve without compensation.

b. The commission, with the advice and assistance of the

coordinator, shall:

1. monitor the performance of the voter assistance program established by this chapter and by section 386 of this charter;

2. make such recommendations as it deems appropriate to the mayor, the council, the board of estimate, the board of elections for steps that could and should be taken by such officials or bodies or by city agencies to encourage and facilitate voter registration and voting by all residents of New York City who are eligible to vote;

3. undertake, by itself or in cooperation with other public or private entities, activities intended to encourage and facilitate voter registration and voting by all residents of New York City who are eligible to vote;

4. receive and review the annual report of the coordinator of voter assistance, and, together with such comments as the commission deems necessary and appropriate, forward copies of such report to the campaign finance board for transmission to the mayor, the council, the board of estimate and all other public officials with responsibilities for policies, programs and appropriations related to voter registration and voting in New York City and to private entities that are currently or potentially involved in activities intended to increase voter registration and voting; and

5. hold public hearings, at least once annually, between the day following the general election and December twenty-first, regarding voter registration and participation in New York City;

Sec. 1055. Coordinator of voter assistance. The commission shall appoint, upon nomination of the mayor, a coordinator of voter assistance. The coordinator shall:

1. encourage and facilitate voter registration and voting by all residents of New York City who are eligible to vote and recommend methods to increase the rate of registration and voting by such residents;

2. identify groups or categories of such residents who are underrepresented among those registered and those voting and recommend methods to increase the rate of voter registration and voting among such groups and categories;

3. adopt rules establishing the content and format for city agencies to follow in preparing the annual voter assistance plans required by section 386 of this charter;

4. consistent with all state and local laws, coordinate the activities of all city agencies in general and specialized efforts to increase registration and voting including, but not limited to, the distribution of forms for citizens who use or come in contact with the services of city agencies and institutions; mailings by city agencies to reach citizens; cooperative efforts with non-partisan voter registration groups, community boards, agencies of city, state, and federal governments, and entities doing business in the city; and publicity and other outreach programs.

5. monitor voter registration and voting in New York City, and receive citizen complaints regarding such processes;

6. submit annually, no later than July thirtieth in each year, to the voter assistance commission a public report on the state of voter registration and participation in the city. Such report shall include, but not be limited to (a) a description of the activities of the voter assistance program and the effectiveness of those activities in achieving the goals of the program; (b) the number of voter registration forms distributed by the program, the manner in which those forms were distributed and the estimated number of persons registered through the activities of the program; (c) the number and characteristics of citizens registered and unregistered to vote during the previous primary, general and special elections and for the most recent time period for which such information is available; (d) the number and characteristics of citizens who voted during the previous primary, general and special elections; (e) a review and analysis of the voter registration and voting processes in New York City during the previous year ; (f) recommendations for increasing voter registration and participation; and (g) any other information or analysis the commission or the board deems necessary and appropriate; and

7. prepare and publish studies and reports on issues of relevance to voter registration and participation in New York City.

Sec. 1057. Non-partisanship in program operations. The board, commission and coordinator shall conduct all their activities in a strictly non-partisan manner.



CHAPTER 49  
OFFICERS AND EMPLOYEES

Sec. 1100. Head of department; whole time. [a.] Every head of an administration or department or elected officer except council members who receives a salary from the city shall give [his] whole time to [his] the duties of the office and shall not engage in any other occupation, profession or employment.

[b. Whenever qualifications for the appointment of persons to public office are prescribed by law, the appointing officer shall, upon making such appointment, file with the civil service commission a certificate that such appointment complies with such law.]

Sec. 1101. Deputies. a. Any head of a department established by this charter may appoint and at pleasure, remove so many deputies as may be provided for by law and determine their relative rank, and may appoint and at pleasure remove a secretary to the department, if so provided, and, except as otherwise provided by law, shall assign to them their duties, and may, by instrument in writing filed in the department, designate any deputy to possess any of his powers and exercise such of his duties and for such times and under such conditions as he may specify.

b. During a vacancy in the office of the head of an administration or a department established by this charter, or whenever by reason of illness or absence from the city he shall

be prevented from attending to the duties of his\_\_office, the highest ranking deputy not absent or under disability shall act as the head of the administration or department.

c. The head of each mayoral department, including each such department within an administration, shall designate a deputy commissioner of the department or a senior officer reporting directly to the head of the department who shall be responsible for the personnel, management and budget administration functions of the department and for financial planning and management in the areas of payroll, purchasing, vouchering, accounting and related areas assigned by the head of the department.

Sec. 1102. Organization of department. a. Any head of an administration or a department established by this charter [or a borough president], to the extent to which the organization of [his] the administration, or department [or office] is not prescribed by law, [may] shall by instrument in writing filed in the agency organize [his] the administration or department [or office] into such divisions, bureaus or offices and make such assignments of powers and duties among them, and from time to time change such organization or assignments, as [he] the head of the administration or department may consider advisable.

b. Except as provided in section eleven, where divisions, bureaus or offices have been established by law, the mayor may consolidate any two or more divisions, bureaus or offices in any agency under his jurisdiction and change the duties of any such division, bureau or office and in like manner reverse or modify

any such action.

[Sec. 1103. Powers of heads of agencies over subordinates. The heads of all agencies shall, except as otherwise provided by law, have power to appoint and remove subject to the provisions of the civil service law, all chiefs of bureaus and all other officers, employees and subordinates in their respective administrations, departments or offices, without reference to the tenure of office of any appointee and to assign them their duties. Nothing herein shall be construed to preclude the mayor from entering into a collective bargaining agreement which provides for a procedure governing the discipline of employees, including their removal, pursuant to section 1173-8.0 of the administrative code of the city of New York, for employees of agencies the heads of which are appointed by the mayor.]

[Sec. 1104. Offices or employees designated to serve in exempt civil service positions. a. Notwithstanding any provision in this charter to the contrary, the mayor or head of an agency may designate any officer or employee occupying a position in the competitive class of the civil service to serve in a position in the exempt class, and in such case, the officer or employee so designated shall thereupon enter upon and exercise all the powers and duties and receive the salary of such exempt position. The officer or employee so designated shall retain all the rights, privileges and status of his position in the competitive class.

b. The appointment of any person chosen to fill the position

thus left vacant shall be temporary and shall terminate upon the return of such officer or employee to such position as provided in subdivision e of this section.

c. Such designation shall be in writing and shall be filed and remain of record in the office of such agency, in the office of the personnel director and in the office of the mayor and shall remain in force until revoked by the mayor or head of such agency, as the case may be.

d. Service in such position in the exempt class shall be credited as service in the competitive class and the status of such officer or employee in respect to pensions or otherwise shall not be adversely affected by such designation.

e. Upon the termination of his services in such exempt position, except by dismissal for cause in the manner provided in section seventy-five of the civil service law, such officer or employee shall immediately and without further application return to his position in the competitive class with the status, rights, privileges and salary enjoyed by him immediately prior to his designation to the position in the exempt class.]

[Sec. 1105. Rules and regulations; adoption; publication; effective date. a. Each head of an agency may, except as otherwise provided by law, make rules and regulations for the conduct of his office or agency and to carry out its powers and duties.

b. No rule or regulation of an officer of the city or of a city agency, including but not limited to those with respect to



the fixing of charges or penalties, nor an amendment or addition thereto, shall be adopted or repealed pursuant to any provision of this charter, unless, prior thereto, there shall be afforded by such officer or agency an opportunity for interested persons to comment in writing thereon by a date certain to be specified in a notice published at least twice in the City Record, the first publication being not less than twenty days and the second publication being not more than ten nor less than five days preceding the date so specified. The notice shall set forth the text and an explanation of the rule, regulation, amendment or addition and the authority pursuant to which it is proposed to be adopted or repealed. Such publication in the City Record shall constitute complete legal notice.

c. In addition thereto, and on the occasion of the first publication in the City Record, for the purpose of broadly disseminating such information, a separate copy of such notice shall be transmitted to the council and mailed to each council member, to the chairpersons of all community boards and to civic organizations and the news media.

d. News media, for the purpose of this section, shall include all radio and television stations broadcasting in the city of New York, all newspapers published in the city of New York having a city-wide or borough-wide circulation, the newspaper of any labor union or trade association representing an industry affected by such rule or regulation and any community newspaper or other publication that requests such notification on an annual basis.

Civic organizations, for the purposes of this section, shall include any city-wide or borough-wide organization that requests such notification on an annual basis.

e. If an officer or agency authorized to adopt rules and regulations finds that imminent peril to the public health or safety requires adoption of a rule or regulation or an amendment or addition thereto and that observance of the requirement of notice and opportunity for comment in writing would be contrary to the public interest, the officer or agency may dispense with all or part of such requirements and adopt or repeal the rule, regulation, amendment or addition as an emergency measure. The officer's or agency's finding and a brief statement of the reasons for that finding shall be incorporated in the emergency measure which shall be published promptly in the City Record, and which shall be forwarded promptly to such news media and civic organizations and to each community board chairperson and council member. No such emergency measure shall remain in effect for more than sixty days unless during that time the officer or agency gives notice and affords interested persons an opportunity to comment thereon as required in this subdivision.

f. No rule or regulation made by any officer of the city or by an agency nor any amendment, addition, or repeal of it shall be effective until

- (1) it is filed in the office of the city clerk,
- (2) a copy is transmitted to the council for its review, and
- (3) after such filing and transmittal, it is published in the

City Record and thirty days have elapsed after such publication. The requirement that thirty days shall first elapse after the publication shall not apply in those instances where a finding of imminent peril has been made and the rule, regulation, or amendment or addition thereto published pursuant to subdivision b of this section, or where the officer or agency shall certify that good cause exists for waiving same, and a statement of such certification is published with the rule, regulation, amendment or addition. It shall be the duty of the corporation counsel to compile all rules and regulations filed in the office of the city clerk and publish them in the City Record each month and annually to revise and print them in a volume or volumes.

g. The provisions of subdivisions b, c, d, e, and f of this section shall not apply to rules, regulations or amendments or additions thereto

(1) which are promulgated by the board of estimate; or

(2) which relate to the organization or internal management of any agency and do not affect materially the rights of or procedures available to the public; or

(3) where and to the extent that there is other specific provision of law as to notice, opportunity for comment, or effective date of the adoption or repeal of such rules or regulations, or amendments or additions thereto.]

Sec. 1109. Summary inquiry. A summary inquiry into any alleged violation or neglect of duty in relation to the property, government or affairs of the city may be conducted under an order

to be made by any justice of the supreme court in the first, second or eleventh judicial district on application of the mayor, the comptroller, the president of the council, any five council members, the commissioner of investigation or any five citizens who are taxpayers, supported by affidavit to the effect that one or more officers, employees or other persons therein named have knowledge or information concerning such alleged violation or neglect of duty. Such inquiry shall be conducted before and shall be controlled by the justice making the order or any other justice of the supreme court in the same district. Such justice may require any officer or employee or any other person to attend and be examined in relation to the subject of the inquiry. Any answer given by a witness in such inquiry shall not be used against him in any criminal proceeding, except that for all false answers or material points he shall be subject to prosecution for perjury. The examination shall be reduced to writing and shall be filed in the office of the clerk of such county within the first, second or eleventh judicial district as the justice may direct, and shall be a public record.

Sec. 1110. [Council and officers trustees] Trusteeship of public property. The council and the council members and all other officers and employees of the city are hereby declared respectively trustees of the property, funds and effects of the city, so far as such property, funds and effects are or may be committed to their management or control. Such trustees are hereby made subject to all the duties and responsibilities



imposed by law on trustees, and such duties and responsibilities may be enforced by the city or by any officer thereof.

Section 1110-a. Capital plant inventory and maintenance estimates.

a. For the purposes of this section:

1. "Maintenance" or "maintain" shall denote those activities necessary to keep the relevant portion of the capital plant in good repair so as to preserve its structural integrity and to prevent its deterioration.

2. "Major portion of the capital plant" shall mean (a) any capital asset (1) which is a capital facility or system comprising a component of the public domain or infrastructure general fixed assets of the city or a building comprising a component of the general fixed assets of the city and (2) which, as of December thirty-first, nineteen hundred eighty-eight, or, as the result of any reconstruction or expansion after such date, has a replacement cost of at least ten million dollars and a useful life of at least ten years, or if purchased or constructed after such date, has an original cost of at least ten million dollars, and an original useful life of at least ten years; and (b) any other capital asset of the city designated by the mayor for the purposes of this section; provided, however, that it shall not include any asset which is leased to or otherwise under the cognizance and control of a public benefit corporation or which is otherwise covered, pursuant to state law, by

requirements which are substantially similar to the requirements of this section.

b. Not later than October first of nineteen hundred eighty-nine, the head of each agency shall submit to the mayor, for each major portion of the capital plant for which the agency or any officer or employee thereof is responsible, the following information: the date of original acquisition or construction, the dates of any significant alterations or reconstructions, the original cost and original useful life, and the current replacement cost and remaining useful life. Such information shall be categorized by project type.

c. Not later than October first of nineteen hundred ninety, the head of each agency shall submit to the mayor an agency capital plant inventory presenting, for each major portion of the capital plant for which the agency or any officer or employee thereof is responsible, an update of the information required by subdivision b of this section as well as an assessment of its condition and a schedule, by year, of maintenance activities. The head of each agency shall submit amendments of such agency capital plant inventory to the mayor as necessary to ensure that such inventory, including the condition assessments and maintenance schedules, is complete, current and accurate. Such inventory and amendments thereto shall be categorized by project type.

d. Such maintenance schedules and amendments thereto, other than amendments reflecting the disposition or demolition of any

portion of the capital plant, shall be prepared or reviewed by professional engineers or architects registered in the state of New York and such engineers or architects shall set forth in writing (1) their opinions as to the reasonableness and sufficiency of the activities set forth in such schedules for maintaining such portions of the capital plant and (2) their recommendations, if any, for changes in such schedules. Such opinions and recommendations shall be based upon commonly used standards for acceptable levels of maintenance, the performance and other specifications to which such portions of the capital plant were designed, and such other engineering or architectural standards as may be appropriate. Such professional engineers or architects may be officers or employees of the city of New York.

e. The mayor shall transmit copies of such agency capital plant inventories, and all amendments thereto, to the council, the board of estimate, the comptroller and the city planning commission and shall ensure that all information from such inventories as amended, including the condition assessments and maintenance schedules, and the opinions and recommendations related to such maintenance schedules are centrally stored and accessible to such officials, the agencies involved and other interested parties.

f. Not later than the first day of October of each year, commencing in nineteen hundred ninety, the mayor shall transmit to the board of estimate and the council estimates for the ensuing fiscal year and for each of the three succeeding fiscal

years of the amounts, by agency and project type and, within project type, by personal services and other-than-personal services, necessary to maintain all major portions of the capital plant, consistent with the maintenance schedules on file with the mayor pursuant to subdivision e of this section. Such estimates shall be prepared or reviewed by the professional engineers or architects who prepared or reviewed such maintenance schedules or by professional engineers or architects registered in the State of New York and employed by the office of management and budget or the agencies involved. Such architects or engineers shall set forth in writing (1) their opinions as to the reasonableness of such estimates and whether such estimates have been logically derived from such maintenance schedules and (2) their recommendations, if any, for changes in such estimates. Such opinions and recommendations shall be centrally stored and accessible to any interested party.

Sec. 1111. Authorization to incur liabilities; Expenses not to exceed appropriation. [No] The head of each agency shall establish the procedure by which charges and liabilities may be incurred on behalf of the agency. Such procedures shall ensure that no officer or employee, on behalf of or in the name of the agency, shall incur a liability or an expense for any purpose in excess of the amount appropriated or otherwise authorized therefor; and no charge, claim or liability shall exist or arise against the city, or any of the counties contained within its territorial limits, for any sum in excess of the amount appropriated or otherwise authorized for the particular purpose.



Sec. 1112      Reports to mayor. The heads of administrations and departments established by this charter, borough presidents and such officers as the mayor may require shall in addition to any other reports required by the charter, once in each year and at such other times as the mayor may direct, make to [him] the mayor in such form and under such rules as [he] the mayor may prescribe, reports of their operations and actions, during the previous fiscal year. [Each] Notice of the availability of copies of each of such annual reports shall be published in the City Record within thirty days of the publication of the report involved. The heads of all agencies shall, when required by the mayor, furnish to him such information as he may demand, within such reasonable time as he may direct.

Sec. 1113.      Heads of departments to furnish copies of papers on demand. The heads of all administrations and departments, except the police and law departments, and the chiefs of each and every division or bureau thereof and all borough presidents, shall with reasonable promptness, furnish to any taxpayer desiring the same, a true and certified copy of any book, account or paper kept by such administration, department, bureau or officer, or such part thereof as may be demanded, upon payment in advance of ten cents for every hundred words thereof by the person demanding the same. The provisions of this section shall not apply to any papers prepared by or for the comptroller for use in any proceeding to adjust or pay a claim against the city or any agency or by or for counsel for use in actions or

proceedings to which the city, or any agency is a party or for use in any investigation authorized by this charter.

Sec. 1114. Inspection by taxpayers of books and papers. All books, accounts and papers in the office of any borough president or any division or bureau thereof, or in any city administration or department or any division or bureau thereof, except the police and law departments, shall at all times be open to the inspection of any taxpayer, subject to such reasonable rules and regulations in regard to the time and manner of such inspection as the borough president, administration, department, office, division or bureau may make; in case such inspection shall be refused, such taxpayer, on his sworn petition, describing the particular book, account or paper that he desires to inspect, may, upon notice of not less than one day, apply to any justice of the supreme court for an order that he be allowed to make such inspection as such justice shall by his order authorize. The provisions of this section shall not apply to any papers prepared by or for the comptroller for use in any proceedings to adjust or pay a claim against the city or any agency or by or for counsel for use in actions or proceedings to which the city or any agency is a party or for use in any investigation authorized by this charter.

Sec. 1115. Officer not to hold any other civil office. Any person holding office, whether by election or appointment, who shall, during his term of office, accept, hold or retain any other civil office of honor, trust or emolument under the

government of the United States, except commissioners for the taking of bail, or of the state, except the office of notary public or commissioner of deeds or officer of the national guard, or who shall hold or accept any other office connected with the government of the city, or who shall accept a seat in the legislature, shall be deemed thereby to have vacated any office held by him under the city government; except that the mayor may accept, or may in writing authorize any other person holding office to accept, a specified civil office in respect to which no salary or other compensation is provided. No person shall hold two city or county offices, except as expressly provided in this charter or by statute; nor shall any officer under the city government hold or retain an office under a county government, except when he holds such office ex officio by virtue of an act of the legislature, and in such case shall draw no salary for such ex officio; provided, however, that any member of the police force or any member of the fire department may hold office as a member of a board of education outside of the city of New York if otherwise qualified to serve thereon.

Sec. 1116. Fraud [of officer]; neglect of duty; willful violation of law relative to office. a. Any council member or other officer or employee of the city who shall wilfully violate or evade any provision of law relating to [his] such officer's office or employment, or commit any fraud upon the city, or convert any of the public property to [his] such officer's own use, or knowingly permit any other person so to convert it or by

gross or culpable neglect of duty allow the same to be lost to the city, shall be deemed guilty of a misdemeanor and in addition to the penalties imposed by law and on conviction shall forfeit [his] such office or employment, and be excluded forever after from receiving or holding any office or employment under the city government.

b. Any officer or employee of the city or of any city agency who shall knowingly make a false or deceptive report or statement in the course of duty shall be guilty of a misdemeanor and, upon conviction, forfeit such office or employment.

Sec. 1117. Pensioner not to hold office. If a person receiving a pension or a retirement allowance made up of such pension and an annuity purchased by the pensioner from the city or any agency, or out of any fund under the city or any agency, by reason of his own prior employment by the city or any agency, shall hold and receive any compensation from any office, employment or position under the state or city or any of the counties included within the city or any municipal corporation or political subdivision of the state, except the offices of inspector of election, poll clerk or ballot clerk under the election law or commissioner of deeds or notary public or jury duty, the payment of said pension only shall be suspended and forfeited during and for the time he shall hold and receive compensation from such office, position or employment; but this section shall not apply where the pension and the salary or compensation of the office, employment or position amount in the



aggregate to less than one thousand eight hundred dollars annually.

Sec. 1118. Officers and employees not be ordered to work outside public employment. No officer or employee of the city or of any of the counties within its limits shall detail or cause any officer or employee of the city or of any of such counties to do or perform any service or work outside of his public office, work or employment; and any violation of this section shall constitute a misdemeanor.

Sec. 1119. Action of boards. Except as otherwise provided by law:

1. Whenever any act is authorized to be done or any determination or decision made by any commission, board, or other body, the act, determination or decisions of the majority of the commission, board, or other body shall be held to be the act, determination or decision of the commission, board or other body.

2. A majority of the members of any commission, board or other body shall constitute a quorum of such commission, board or other body.

3. Each commission, board or other body may choose at its own pleasure one of its members who shall be its president and one who shall be its treasurer and may appoint a secretary or chief clerk within the appropriation therefore.

Sec. 1120. Additional powers and duties. Any elected or appointed officer of the city or any board or commission or any member thereof shall, in addition to the powers and duties

vested in him or by this charter, perform any duties and exercise any powers vested in him or in such board of commission by any other provision of law and any power necessary to carry out the powers and duties vested in him or it.

Sec. 1122. Bonds. Unless otherwise provided by law, each officer of the city who has possession of or control over any funds of the city shall give bond for the faithful performance of his duties in such sum as may be fixed and with sureties to be approved by the comptroller. Such bonds shall run to the city of New York, and in case there is another officer who is responsible for the officer giving the bond, shall run also to such officer.

Sec. 1123. Failure to testify. If any council member or other officer or employee of the city shall, after lawful notice or process, wilfully refuse or fail to appear before any court or judge, any legislative committee, or any officer, board or body authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or to answer any question regarding the property, government or affairs of the city or of any county included within its territorial limits, or regarding the nomination, election, appointment or official conduct of any officer or employee of the city or of any such county, on the ground that his answer would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any such matter in relation to which he may be asked to testify upon any such hearing or inquiry, his term or tenure of office or employment shall terminate and such office or employment shall be

vacant, and he shall not be eligible to election or appointment to any office or employment under the city or any agency.

Sec. 1124. Civil rights protected. Nothing in this charter contained shall affect any rights given or secured by section fifteen of the civil rights law, including the right of officers and employees, as citizens, to appeal to the legislature or to any public officer, board, commission or other public body for the redress of their grievances as such officers and employees.

Sec. 1125. Salaries of the district attorneys. Each of the district attorneys of the counties of New York, Bronx, Kings, Queens and Richmond shall receive an annual salary equal to the compensation received by a justice of the supreme court in the county in which [he] such district attorney has been elected and is serving, or [eighty-two] ninety-seven thousand dollars a year, whichever is greater.

Sec. 1126. Political activities forbidden. No member or officer or employee of the department of personnel or the civil service commission shall hold office or serve as a member of any committee in any political organization or association, nor shall such member, officer or employee serve as a delegate to any political convention. Any member, officer or employee violating this provision shall forfeit such office or employment.

Sec. 1127. Condition precedent to employment. a. Notwithstanding the provisions of any local law, rule or regulation to the contrary, every person seeking employment with the city of New York or any of its agencies regardless of civil

service classification or status shall sign an agreement as a condition precedent to such employment to the effect that if such person is or becomes a nonresident individual as that term is defined in section 11-1706 of the administrative code of the city of New York or any similar provision of such code, during employment by the city, such person will pay to the city an amount by which a city personal income tax on residents computed and determined as if such person were a resident individual, as defined in such section, during such employment, exceeds the amount of any city earnings tax and city personal income tax imposed on such person for the same taxable period.

b. Whenever any provision of this charter, the administrative code of the city of New York or any rule or regulation promulgated pursuant to such charter or administrative code employs the term "salary", "compensation", or any other word or words having a similar meaning, such term shall be deemed and construed to mean the scheduled salary or compensation of any employee of the city of New York, undiminished by any amount payable pursuant to subdivision a of this section.

Sec. 1128. Interference with investigation. a. No person shall prevent, seek to prevent, interfere with, obstruct, or otherwise hinder any study or investigation being conducted pursuant to the charter. Any violation of this section shall constitute cause for suspension or removal from office or employment.

b. Full cooperation with the commissioner of investigation



shall be afforded by every officer or employee of the city or other persons.

Sec. 1129. Members of police department; no other office. Any police commissioner or any member of the police force who shall accept any additional place of public trust or civil emolument except as a member of a community board, or who shall during his or her term of office be nominated for any office elective by the people, except a member of the police force appointed, nominated or elected to a board of education outside of the city of New York, and shall not, within ten days succeeding same, decline the said nomination, shall be deemed thereby to have resigned his commission and to have vacated his office, and all votes cast at any election for any person holding the office of police commissioner, or within thirty days after he or she shall have resigned such office, shall be void.

The foregoing provisions shall not apply to any member of the police force who, with the written authorization of the mayor, shall accept any additional place of public trust or civil emolument while on leave of absence without pay from the department.

Sec. 1130. Members of fire department; no other office. Any commissioner or any member of the uniformed force of the fire department who shall accept any additional place of public trust or civil emolument except as a member of a community board, or who shall during his or her term of office be nominated for any office elective by the people, except a member of the force

appointed, nominated or elected to a board of education outside of the city of New York, to a party position as defined within the New York state election law or to a board of fire commissioners established in accordance with section 3-308 of the village law or section one hundred seventy-four of the town law, and shall not, within ten days succeeding the same, decline the said nomination, shall be deemed thereby to have resigned his or her commission and to have vacated his or her office. The provisions of this section shall apply as long as it does not interfere with his/her performance as a member of the department.

The foregoing provisions shall not apply to any member of the uniformed force of the department who, with the written authorization of the mayor, shall accept any additional place of public trust or civil emolument while such member shall be on leave of absence without pay from the department.

Sec. 1131. School officers not to be interested in contracts; removal. The board of education shall have the power to remove from office any school officer who shall have been directly or indirectly interested in the furnishing of any supplies or materials, or in the doing of any work or labor, or in the sale or leasing of any real estate, or in any proposal, agreement or contract for any of these purposes, in any case in which the price or consideration is to be paid, in whole or in part, directly or indirectly, out of any school moneys, or who shall have received from any source whatever any commission or compensation in connection with any of the matters aforesaid; and

any school officer who shall violate the preceding provisions of this section shall be deemed guilty of a misdemeanor, and shall also forfeit such office and be ineligible to any office or employment under the board of education or under the city or any agency. The provisions of this section shall not apply to authors of school books used in any of the public schools because of any interest they may have as authors in such books.

Sec. 1132. Contributions to political funds, etc., prohibited. Neither the city superintendent of schools, nor any associate or assistant superintendent of schools, nor any member of the board of examiners, nor any member of the supervising or teaching staff of the board of education of the city shall be permitted to contribute any moneys directly or indirectly to any fund intended to affect legislation increasing their emoluments, but nothing herein shall be construed to deny any right afforded by section eleven hundred twenty-four.

Sec. 1133. Transmission of reports; disposal of records; destruction of other materials. a. The head of each agency shall transmit to the municipal reference and research center at least four copies of each report, document, study or publication of such agency, immediately after the same shall have been issued. The agency head shall transmit to the center four copies of each report, document, study or publication prepared by consultants, or other independent contractors, as soon as such report or study is released.

b. No records shall be destroyed or otherwise disposed of by

an agency, officer or employee of the city unless approval has been obtained from the commissioner of records and information services, the corporation counsel and the head of the agency which created or has jurisdiction over the records who shall base their determinations on the potential administrative, fiscal, legal, research or historical value of the record. Approval for records disposal shall be contained in an approved records disposal schedule and remain in force until the status of the records changes. The commissioner of records and information services or the head of the agency which created or has jurisdiction over the records may initiate action to eliminate records eligible for disposal. The commissioner of records and information services shall insure the destruction of disposable records within six months of the date of eligibility. Records retained for historical or research purposes shall be transferred, upon request of the commissioner of records and information services, to the municipal archives for permanent custody.

c. Other materials not included within the definition of records in this charter may be destroyed, if not otherwise prohibited by law, at any time by the agency in possession of such materials without the approval of the commissioner of records and information services. Such commissioner, may, however, formulate procedures and interpretations to guide in the disposition of such materials.

Sec. 1134. Restriction on community board membership of



employees of council members and borough presidents. No person who is employed by a borough president or a council member may be appointed to serve on a community board to which such borough president may make appointments or to which such council member may make recommendations for appointment.

Sec. 1135. Certification of officers and employees. a. On or before the tenth day after an individual becomes a public servant, such individual shall file a written statement with the city clerk that such individual has read and shall conform to the provisions of this chapter.

b. On or before the tenth day after the head of any mayoral agency commences the performance of official duties, such agency head shall, in addition, file a written statement with the city clerk that such agency head has read and shall conform to the provisions of chapter sixteen.

c. The Department of Personnel shall make available such copies of chapters 16 and 49 as are necessary to fulfill the requirements of this section.

CHAPTER 51  
TRANSITORY PROVISIONS

Sec. 1140. Relation of this charter to existing law. It is the purpose and intent of this charter to set forth the structure of the city government and the manner in which it is to operate, in accordance with the provisions of chapter six hundred thirty-four of the laws of nineteen hundred seventy-two, as amended, and to continue in force all provisions of the New York City Charter adopted on November seventh, nineteen hundred sixty-one, as amended, and all other provisions of law affecting the city and the counties within the city, not inconsistent with the provisions of this charter, in force at the time when this charter shall take effect, until repealed or amended or until continued in the revision, simplification, consolidation, codification, restatement and annotation of the administrative code of the City of New York.

Sec. 1141. Rights of officers and employees preserved. Nothing in this charter contained shall affect or impair the rights or privileges of officers or employees of the city or of any agency existing at the time when this charter shall take effect, or any provision of law in force at the time when this charter shall take effect and not inconsistent with the provisions of this charter, in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights or any other rights

or privileges of officers or employees of the city generally or officers or employees of any agency.

Sec. 1142. Continuity of powers and duties. Any agency or officer to whom are assigned by this charter any powers and duties shall exercise such powers and duties in continuation of their exercise by the agency or officer by which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter commenced by the agency or officer by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to the subject-matter of such powers or duties and applicable to the agency or officer formerly exercising such powers and duties shall, so far as not inconsistent with the provisions of this charter, apply to the agency or officer to which such powers and duties are assigned by this charter.

Sec. 1143. Transfer of officers and employees in case of transfer of functions. Wherever by any provision of this charter functions, powers or duties are assigned to any agency or officer which have been heretofore exercised by any other agency or officer, all officers and employees in the classified municipal civil service who at the time when such charter provisions shall take effect are engaged in the performance of such functions, powers or duties shall be transferred to the agency to which such functions, powers or duties are assigned by this charter, without examination and without affecting existing compensation or

pension or retirement rights, privileges or obligations of such officers and employees.

Sec. 1144. Transfer of records and property. All records, property and equipment whatsoever of any agency or part thereof, all the powers and duties of which are assigned to any other agency by this charter, shall be transferred and delivered to the agency to which such powers and duties are so assigned. If part of the powers and duties of any agency or part thereof are by this charter assigned to another agency, all records, property and equipment relating thereto shall be transferred and delivered to the agency to which such powers and duties are so assigned.

Sec. 1145. Continuity of agencies. a. Any agency provided for in this charter with a name the same or substantially the same as that of an agency heretofore existing shall be deemed to be a continuation of such agency heretofore existing and shall exercise its powers and duties in continuation of their exercise by the agency by which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter commenced by the agency by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to such formerly existing agency shall, so far as not inconsistent with the provisions of this charter, apply to such agency provided for by this charter.

\* b. The commissioner of finance shall have and exercise all the functions, powers and duties exercised by the treasurer and



all the functions, powers and duties exercised by the comptroller in respect of excise and non-property taxes prior to the first day of January, nineteen hundred sixty-three.

\* NB This subdivision was removed by general election and revived by amendment in L.L. 28/76 Sec. 9

\* c. The commissioner of finance shall have and exercise all the functions, powers and duties exercised by the tax department prior to the first day of January, nineteen hundred sixty-three other than the function, power and duty to hear and determine applications for the correction of assessments on real property and for the exemption of such property from taxation.

\* NB This subdivision was removed by general election and revived by amendment in L.L. 28/76 Sec. 9 Sec. 1146. Pending actions and proceedings. No action or proceeding, civil or criminal, pending at the time when this charter shall take effect, brought by or against the city or any agency or officer, shall be affected or abated by the adoption of this charter or by anything therein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any agency or officer party thereto may by this charter be assigned or transferred to another agency or officer, but in that event the same may be prosecuted or defended by the head of the agency to which such functions, powers and duties have been assigned or transferred by this charter.

Sec. 1147. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost or

impaired or affected by reason of the adoption of this charter.

CHAPTER 52  
GENERAL PROVISIONS

Sec. 1150. Definitions. For the purposes of this charter:

1. The term "city" shall mean the city of New York, and unless the context otherwise requires, shall include the several boroughs.

2. The term "agency" shall mean a city, county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

3. The term "law" or "laws" shall include the constitution, this charter, any statute, the administrative code, any local law, and any ordinance, rule or regulation having the force of law.

4. The term "statute" shall mean an act of the legislature.

5. The term "maintenance" shall include minor repairs, and in case of doubt the mayor or an officer designated by him shall decide whether a repair is a minor repair.

6. The term "intercepting sewer" shall mean a sewer the principal purpose of which is the interception from other sewers and conveyance of sewage to treatment plants. In case of doubt the board of estimate shall decide whether a sewer is an intercepting sewer.

7. a. The term "wharf property" shall mean wharves, piers,

docks and bulkheads and structures thereon and slips and basins, the land beneath any of the foregoing, and all rights, privileges and easements appurtenant thereto and land under water in the port of New York, and such upland or made land adjacent thereto as was vested in the department of docks on January first, nineteen hundred thirty-eight or thereafter was or may be assigned to it or its successor agencies.

b. "Water front property" shall mean all property fronting on all the tidal waters in the port and city of New York and extending inshore to the property line of the first adverse owner and shall include such land under water extending outshore to the pierhead line or the property line, whichever extends furthest outshore.

c. "Water front commerce" shall mean the activity on water front property which encompasses the receipt of cargo or goods at the wharves, piers, docks or bulkheads from ships and their delivery to points inland or the receipt of such cargo or goods at such wharves, piers, docks or bulkheads from points inland for shipment by ships and shall include the temporary storage of such cargo or goods in the sheds or warehouses on such property pending their delivery or shipment.

d. "Furtherance of navigation" shall mean the activity on water front property which involves ship building, ship repairing, boating, dry dock facilities and similar uses.

8. The term "the port of New York" shall include all the waters of the North river, the East river and the Harlem river



and all the tidal waters embraced within or adjacent to or opposite to the shores of the city.

9. The terms "three-fourths vote" and "two-thirds vote" when they apply to the board of estimate shall mean respectively three-fourths and two-thirds of the total number of votes which all the members of the board are entitled to cast.

10. The term "administrative code" shall mean the administrative code of the city.

11. The term "budget" shall mean the expense budget unless the context otherwise requires.

12. Except as in this charter otherwise provided, the term "real property" shall include real estate, lands, tenements and hereditament, corporeal or incorporeal.

Sec. 1151. Effect of this charter on existing law. a. All laws and parts of laws relating to or affecting the city of New York or the municipalities consolidated therein in force when this charter as amended shall take effect are hereby repealed and superseded to the extent that the same are inconsistent with the provisions of this charter and no further.

b. All other laws and parts of laws shall continue in force until repealed, amended, modified or superseded.

c. Insofar as the provisions of this charter are the same in terms or in substance and effect as provisions of law in force when this charter shall take effect, relating to or affecting the city of New York, the provisions of this charter are intended to be not a new enactment but a continuation of such provisions of

law, and this charter shall be so construed and applied.

Sec. 1152. Time of taking effect. a. This charter shall take effect on the first day of January, nineteen hundred sixty-three and thereafter shall control in respect to all the powers, functions and duties of all officers, agencies, and employees of the city as provided herein, except that chapter twelve hereof shall take effect on January first, nineteen hundred sixty-two.

b. The amendments to the charter approved by the electors on November fourth, nineteen hundred seventy-five shall take effect on January first, nineteen hundred seventy-seven, and thereafter shall control as provided in respect to all the powers, functions and duties of all offices, agencies, and employees except as further specifically provided in other sections of this revised charter and except:

(1) that existing community districts and community boards shall continue in force and effect until the new community districts and community boards pursuant to chapters sixty-nine and seventy are established pursuant to this revised charter;

(2) that powers and duties of community boards and borough boards pursuant to chapters six, eight, nine, fourteen, fifteen, twenty-seven, sixty-nine and seventy shall be assumed by the existing community boards and borough boards on July first, nineteen hundred seventy-six and such boards shall continue to have such powers and duties until new community boards and borough boards are established within the new community districts and the boroughs pursuant to chapters sixty-nine and seventy,

which boards shall assume the powers and duties specified in this charter at such time; and

(3) that the other amended provisions of this charter requiring any act to be done prior to January first, nineteen hundred seventy-seven shall take effect immediately upon adoption.

c. The amendments to the charter approved by the electors on November eighth, nineteen hundred eighty-eight shall take effect immediately, and thereafter shall control as provided in respect to all the powers, functions and duties of all offices, agencies, and employees except as further specifically provided in other sections of this revised charter and except:

(1) that, with respect to the tax appeals tribunal established in section one hundred sixty-eight,

(a) the mayor shall appoint the first three commissioners, and shall designate one of them as president, no later than the first day of July, nineteen hundred eighty-nine;

(b) the tribunal shall adopt rules of procedure pursuant to section one hundred sixty-nine no later than the first day of December, nineteen hundred eighty-nine; and

(c) the tribunal shall begin accepting, hearing and determining appeals on the first day of January, nineteen hundred ninety, except that it shall not begin accepting, hearing or determining appeals concerning the taxes authorized by sections one and two of the appendix to the General City Law until the later of (A) the date such sections are amended to be consistent

with section one hundred sixty-nine through one hundred seventy-two or (B) the first day of January, nineteen hundred ninety;

(2) that the effective date of section one thousand forty-six shall be the first day of July nineteen hundred eighty-nine, and

(3) that the provisions of the new chapter sixty-eight, entitled conflicts of interest, shall take effect on the first day of January, nineteen hundred ninety, and the provisions of chapter sixty-eight heretofore in effect, entitled ethics, shall remain in effect up to and including the thirty-first day of December of nineteen hundred and eighty-nine, at which time they shall be repealed, provided, however, that:

(a) section twenty-six hundred eight of chapter sixty-eight heretofore in effect shall not be repealed but shall be renumbered as section one hundred thirty-one and shall continue in effect;

(b) section twenty-six hundred two shall take effect immediately and subdivisions a, b, c, d, i, j and k of section twenty-six hundred three of the new chapter sixty-eight shall become effective upon confirmation of the members nominated by the mayor pursuant to subdivision c of such section twenty-six hundred two;

(c) section twenty-six hundred of chapter sixty-eight heretofore in effect, shall only remain in effect until the confirmation of the members nominated by the mayor pursuant to subdivision c of section twenty-six hundred two of the new chapter sixty-eight; and



(d) the powers vested in the board of ethics by chapter sixty-eight heretofore in effect shall, upon the expiration of section twenty-six hundred of such chapter, be transferred, assigned and devolved upon the conflicts of interest board established by section twenty-six hundred two of the new chapter sixty-eight of the charter.

Sec. 1153. Separability clause. If any provision of this charter or of any amendments thereto shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, it is the purpose and intent of this charter that all other provisions thereof shall nevertheless be separately and fully effective and that the application of any such provision to other persons or situations shall not be affected.

Sec. 1154. Short title. This charter shall be known and may be cited as "The New York city charter."

Sec. 1155. Public attendance at executive sessions. a. Except as otherwise provided pursuant to subdivision b of this section, the public may attend all sessions or meetings of the following agencies whenever items on the calendar of such agency are to be considered and acted upon in a preliminary or final manner: art commission, conciliation and appeals board, environmental control board, board of health, landmarks preservation commission, city planning commission, board of standards and appeals, tax commission, youth board, board of estimate and its committees, and the council and its committees.

b. Any agency specified pursuant to subdivision a of this

section may convene an executive session closed to the public by a three-fourths vote of all of its members, but shall not take final action at any such meeting.

CHAPTER 54  
COLLECTIVE BARGAINING

Sec. 1170. Office of collective bargaining; director. There shall be an office of collective bargaining, the head of which shall be the director of such office, who shall be the person holding the office of chairman of the board of collective bargaining. The director may appoint, and at pleasure remove, two deputies.

Sec. 1171. Board of collective bargaining. There shall be in the office of collective bargaining a board of collective bargaining, which shall consist of seven members. Two members of the board shall be city members, two members of the board shall be labor members, and three members of the board, of whom one shall be chairman, shall be impartial members. The mayor shall have the power to appoint the city members of the board to serve at his pleasure, and the labor members of the board from designations by the municipal labor committee. Each labor and city member shall have an alternate, who shall be appointed and removed in the same manner as the member for whom he is the alternate. The chairman and other impartial members shall be elected by the unanimous vote of the city and labor members, and shall serve for three year terms, provided, that of the impartial members first elected, the chairman shall serve for a term ending on January first, nineteen hundred seventy, one member shall serve for a term ending on

January first nineteen hundred sixty-nine, and one member shall serve for a term ending on January first, nineteen hundred sixty-eight. Notwithstanding any other provision of law, a labor member may not be removed from the board except upon request of the municipal labor committee, or except for cause, as hereinafter provided. Any member may be removed for cause by a majority of the entire board, including at least one city member and one labor member, after having been given a copy of the charges against him and an opportunity to be heard in person or by counsel in his defense upon not less than ten days' notice. Vacancies in the office of a city member or a labor member shall be filled in the same manner as herein provided for appointment. Vacancies in the office of an impartial member occurring otherwise than by expiration of term shall be filled by unanimous vote of the city and labor members for the unexpired balance of the term.

Sec. 1172. Board of certification. There shall be in the office of collective bargaining a board of certification, which shall consist of the impartial members of the board of collective bargaining. The chairman of the board of certification shall be the person who is chairman of the board of collective bargaining.

Sec. 1173. Powers and duties. The office of collective bargaining, the board of collective bargaining and the board of certification shall have such powers and duties with respect to labor relations and collective bargaining as shall be prescribed by law .

Sec. 1174. Compensation. a. Board of collective bargaining;



board of certification; director. The city members and the labor members of the board of collective bargaining and their alternates shall serve without compensation. The director shall be salaried for his services as director, chairman of the board of collective bargaining, and chairman of the board of certification. On and after the first day of July, nineteen hundred eighty, the per diem fee to be paid to impartial members, other than the director, when actually rendering services as a member of either such board shall be two hundred dollars. The amount of such per diem fee shall be increased to two hundred fifty dollars on and after the first day of January, nineteen hundred eighty-one. The director and all members of both such boards and their alternates shall be entitled to receive reimbursement for their actual and necessary expenses incurred in the performance of their duties. Fifty per cent of the salary, fees, and expenses provided for in this subdivision shall be paid by the members of the municipal labor committee, under rules and regulations issued by the board of collective bargaining, which rules may provide how such costs shall be distributed among such members.

b. Members of mediation and impasse panels; arbitrators. Members of mediation and impasse panels, and arbitrators, shall be paid a per diem fee to be determined by the board of collective bargaining, unless the parties to the particular dispute shall have agreed to a different fee, and shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. The public employer and public employee organization

which are parties to the particular negotiation or grievance shall each pay fifty percent of such fees and expenses and related expenses incidental to the handling of deadlocked negotiations and unresolved grievances.

c. Appointment of counsel and attorneys. The director may appoint a counsel and attorneys, who, at the direction of the board of certification or the board of collective bargaining may appear for and represent the office of collective bargaining or either of the aforesaid boards in any legal proceeding.

Sec. 1175. Publication of collective bargaining agreements. Not later than sixty calendar days after the execution of a collective bargaining agreement, a copy shall be published in the City Record together with a statement by the mayor

(1) of the total costs and current and future budgetary and economic consequences of the agreement and

(2) of the implications and likely impact of the agreement on the efficient management of city agencies and the productivity of city employees.

Sec. 1176. Budgeting for agreements. a. So far as practicable, each collective bargaining agreement covering city employees shall be executed prior to the commencement of the fiscal year during which its provisions shall first be in effect.

b. No part of any retroactive wage or salary settlement shall be charged to the capital budget.

Sec. 1177. Agency participation. The heads of city agencies or their designated representatives shall participate in the

development of the city's position with respect to work rules and practices and other matters affecting the management of each agency in advance of collective bargaining negotiations affecting employees of an agency.

## CHAPTER 56-A

## OFFICE FOR ECONOMIC DEVELOPMENT

Sec. 1300. Office; executive director. There shall be an office for economic development, the head of which shall be the executive director for economic development, who shall report directly and be responsible to the deputy mayor for economic development.

Sec. 1311. Officials of the office. The deputy mayor for economic development may appoint ten directors and he may also appoint deputy directors, assistant directors, and managers within the appropriations available for the office.

Sec. 1312. Powers and duties of the executive director. The executive director shall have the power to exercise or delegate any of the functions, powers and duties vested in him or in the office by this chapter or otherwise. In the performance of his functions the executive director shall have, in addition to such others as may be conferred upon him from time to time by law, the power and duty:

1. To analyze the needs of the city with respect to matters within the jurisdiction of the office, prepare intermediate and long range programs designed to meet such needs, and establish priorities among them;

2. To prepare and transmit the budget estimates of the office as prescribed by law;

3. To supervise the execution and management of all programs,



activities and expenditures of the office;

4. To the extent to which the organization of the office is not prescribed by law, and in accordance with such standards and policies as may be established by the mayor, to organize the office into sections, divisions, bureaus, boards and make assignments of powers and duties among them and from time to time change such organization or assignments.

5. To be responsible for coordinating the activities of public or quasi-public bodies to ensure effective economic development policies and programs in city agencies.

Sec. 1313. Functions of the office. Except as otherwise provided by law, the office shall perform all those functions and operations performed by the city of New York relating to the economic development of the city, including, without limitation, the following:

1. With respect to economic development the office shall have the power and duty:

a. To establish business, industrial and commercial policies, programs and projects which affect the business, industry, industrial, commercial or economic well-being, development, growth and expansion of the economic life of the city, except for those functions which have been delegated to another agency of city government by statute, local law or executive order, in which instance the office of economic development shall review and coordinate those functions, together with the other agency of city government to which those functions have been delegated; the heads

of all city agencies are hereby directed to forward to the office for economic development all economic development proposals following intake of said proposals. Upon receipt of a proposal, the office for economic development shall assume responsibility for said proposal but the forwarding agency shall furnish the office for economic development such assistance as may be required to carry out the proposal;

b. To serve as liaison for the city with the New York city industrial development agency, the public development corporation and all other public or quasi-public bodies involved in economic development within the city or any other such body as the mayor shall direct;

c. To study, organize, promote, coordinate and carry out within or without the city, activities, projects and programs designed to encourage, stimulate and foster the well-being, development, growth and expansion of business, industry and commerce in the city, and the enhancement and protection of the economic life of the city;

d. To assist, encourage and promote broadened employee ownership, particularly through the use of employee stock ownership plans and producer cooperatives, by conducting research, outreach and public informational programs pertaining to employee ownership and employee stock ownership plans; by providing technical assistance to employee groups exploring an employee buyout, where such an action might be instrumental in retaining a business within the City of New York; and by ensuring that firms

applying for financial assistance from any of the public or quasi-public bodies involved with economic development in the City of New York shall be correctly advised as to the potential advantages of forming an employee stock ownership plan. 2. To serve as a clearing house in connection with efforts to devise solutions for problems affecting business, industry and commerce in the city;

3. To promote and encourage the expansion and development of markets for city products;

4. To promote and encourage the location and development of new business and industry in the city, as well as the maintenance and expansion of existing business and industry, and for the purpose to cooperate with public and private agencies, organizations and individuals;

5. To study conditions affecting business, industry and commerce in the city, and to collect and disseminate such information, make such studies and carry on such education activities as may be necessary or useful in the effective execution of the powers of the office in relation to the promotion and development of business, industry and commerce in the city;

6. To maintain a business information service in order to assist business and industry in the city, and to encourage business and industry outside of the city to patronize the business and industrial establishments of the city;

7. To make to the mayor, from time to time, recommendations concerning steps deemed advisable for the promotion and

advancement of business and industrial prosperity in the city and the elimination of restrictions, burdens and handicapping factors having an adverse effect on business, industry and commerce in the city;

8. To publicize the economic advantages and other factors which make the city a desirable location for business and industry;

9. To collect information and compile and distribute literature and publicity material dealing with the facilities, advantages and attractions of the city and the historic and scenic points and places of interest therein;

10. To plan and conduct publicity and information programs designed to attract tourists, vacationers, visitors and other interested persons to the city, and to encourage, coordinate and cooperate with the efforts of public and private agencies, organizations and groups to publicize the advantages and attractions of the city for such purposes;

11. To encourage and cooperate with the efforts of public and private agencies, organizations and groups in publicizing the business, industrial and commercial advantages of the city;

12. To cooperate with and assist any corporation, organization, agency or instrumentality, whether public or private, the objects of which include, or which is authorized to act for the advancement of the business and industrial prosperity and economic welfare of the city, or the furnishing of encouragement and assistance in the location of new business and industry therein, or the rehabilitation or expansion of existing business and



industry therein, or the creation of job opportunities or additional employment therein, so as to provide support by the office for any action, efforts or activities for the accomplishment of any such purposes in the city, on the part of any such corporation, organization, agency or instrumentality; and

13. To issue permits for the taking of motion pictures, and for the taking of photographs and for the use or operation of television cameras and/or any other transmitting television equipment in or about city property, or in or about any street, park, marginal street, pier, wharf, dock, bridge or tunnel within the jurisdiction of any city department or agency or involving the use of any city owned or maintained facilities or equipment.

Sec. 1314. Waterfront management advisory board. There shall be in the office a waterfront management advisory board which shall consist of twenty-one members and which shall consult with the deputy mayor for economic development and the commissioner of ports and terminals to advise them on matters relating to the industrial, commercial, residential, recreational and any other development of the city's wharves and waterfront property and on other matters and their request and to render annually by March first as of December thirty-first of the preceding year to the mayor, the board of estimate, the city council and people of the city a report regarding the development of wharves and waterfront property in the city. The board shall include the deputy mayor for economic development, to be designated as the chairperson of the board, the commissioner of ports and terminals, to be

designated as the vice chairperson, the director of the office of management and budget, the chairperson of the city planning commission, the commissioner of parks and recreation, the commissioner of housing preservation and development, the commissioner of environmental protection, two city council members to be designated by the city council; in addition, there shall be two labor representatives, two industry representatives, and eight representatives of community interests, one from each borough and three at large, to be selected by the mayor with the advice and consent of the city council. The labor, industry and community representatives shall each serve for a three-year term without compensation.

Sec. 1315. New York City sports commission. a. There shall be established a New York city sports commission consisting of five members who shall serve without compensation, each for a term of three years. Two members of the commission shall be appointed by the mayor, and two members shall be appointed by the vice-chairman of the council, and one member shall be designated as chairperson by the mayor after consultation with the vice-chairman. The commission may appoint an executive director to serve at its pleasure and may employ or retain other employees and consultants within appropriations for such purpose.

b. Each member may designate a representative who may vote on behalf of such member and who shall be counted as a member for the purpose of determining the existence of a quorum. The designation of a representative shall be made in a prior written notice served

upon the chairperson of the commission.

c. The commission shall:

(1) make recommendation to insure the continuation and growth of a healthy environment for professional, amateur and scholastic sport activities in the city; and

(2) seek to promote the city as a positive and profitable base for professional sports teams wishing to relocate their organizations; and

(3) perform such other duties as may be necessary as determined by the commission.

## CHAPTER 57

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Sec. 1401. Department; commissioner. There shall be a department of environmental protection, the head of which shall be the commissioner of environmental protection.

Sec. 1402. Deputies. The commissioner may appoint three deputies.

Sec. 1403. Powers and duties of the commissioner. Except as otherwise provided by law, the commissioner shall have charge and control of and be responsible for all those functions and operations of the city relating to the provision of a pure, wholesome and adequate supply of water, the disposal of sewage and the prevention of air, water and noise pollution and shall be authorized to respond to emergencies caused by releases or threatened releases of hazardous substances and to collect and manage information concerning the amount, location and nature of hazardous substances. The powers and duties of the commission shall include, without limitation, the following:

a. Water resources control.

(1) The commissioner shall have charge and control of:

(a) All structures and property connected with the supply and distribution of water for public use not owned by private corporations, including all fire and drinking hydrants and all water meters;

(b) Furnishing the water supply and maintaining its quality,



and of the investigation for and the construction of all works necessary to deliver the proper and required quality of water with ample reserve for contingencies and future demands;

(c) Making and enforcing rules and regulations governing and restricting the use and supply of water; and

(d) Making rules and regulations, subject to the approval of the board of estimate, fixing uniform annual charges and extra and miscellaneous charges for the supply of water, meter rates and minimum charges for the supply of water by meter, annual service charges and charges for meters and their connections and for their setting, repair and maintenance and charges for water where a meter shall fail to register correctly or shall cease to record the flow of water or where a meter shall have been removed, and in cases in which no fines are fixed by provision of law, or fixing and collecting fines for violations of rules and regulations; but no fines shall be imposed against any property unless notice thereof by mail is addressed to the owner of the property, or if his name is unknown, then to the "owner or occupant" thereof and a hearing is held;

(2) The commissioner shall examine into the sources of water supply of any private companies supplying the city or any portion thereof or its inhabitants with water to see that the same is wholesome and the supply is adequate, to establish such rules and regulations in respect thereof as are reasonable and necessary for the convenience of the public and to exercise superintendence, regulation and control in respect to the supply of water by such

water companies;

(3) Except as otherwise provided by law and subject to the provisions of this chapter, the commissioner shall regulate and control emissions into water within and about the city of New York of harmful or objectionable substances, contaminants and pollutants; enforce all laws, rules and regulations with respect to such emissions; make such investigations and studies as may be desirable for the purpose of such enforcement and of controlling and eliminating pollution of such waters, and for such purpose shall have the power to compel the attendance of witnesses and to take their testimony under oath.

b. Sewage control.

(1) The commissioner shall have charge and control over the location, construction, alteration, repair, maintenance and operation of all sewers including intercepting sewers and sewage disposal plants, and of all matters in the several boroughs relating to public sewers and drainage, and shall initiate and make all plans for drainage and shall have charge of all public and private sewers in accordance with such plans; and shall have charge of the management, care and maintenance of sewer and drainage systems therein.

(2) The commissioner may adopt regulations requiring the discharge of sewage, refuse, factory waste and trade waste into the public sewers of the city, or regulating, restricting or prohibiting the use of public sewers for the discharge therein of any material or substance and may prescribe civil penalties for

the violation thereof.

c. Air resources control. The commissioner shall regulate and control the emission into the open air of harmful or objectionable substances, including, but not limited to, smoke, soot, dust, fumes, flash, gas vapors, odors and any products of combustion or incomplete combustion resulting from the use of fuel burning equipment or from the heating of fuels or refuse. He shall enforce all laws, rules and regulations with respect to such emissions. He shall make such investigations and studies as may be desirable for the purpose of such enforcement and of controlling and eliminating air pollution, and for such purpose shall have power to compel the attendance of witnesses and to take their testimony under oath.

d. Noise pollution control. The commissioner shall enforce all laws, rules and regulations to eliminate noise pollution. He shall make investigations and studies to develop permissible sound levels and to correct problems related to noise control, and, for such purposes, he shall have power to compel the attendance of witnesses and to take their testimony under oath.

e. Review of environmental consequences of certain activities. The commissioner shall review and comment upon the environmental consequences of any activity requiring the approval of any agency of the city where such activity may have a significant impact on the physical aspects of the environment of the city, and shall be responsible for investigating, evaluating and reporting upon activities related to fuel supply and demand, alternative sources

of energy, and resource recovery.

f. Resource recovery task force.

(1) There shall be a resource recovery task force, which shall consist of no more than twelve employees, as well as such clerical and secretarial staff as may be necessary, all of whom shall be assigned by the commissioners of the department of environmental protection and the department of sanitation. The commissioners shall jointly appoint an executive director who shall report directly to both commissioners.

(2) The task force shall advise and make recommendations to both commissioners with respect to planning and implementation of programs of energy and materials recovery for the city's solid and liquid wastes.

(3) The approval of both commissioners shall be required prior to the adoption of any plan, action or regulation recommended by the task force except as to environmental impact determinations which shall be the sole responsibility of the commissioner of environmental protection.

g. Energy. The commissioner shall have the power and duty of formulating an energy policy for the city. In formulating such policy, the commissioner shall analyze the energy and fuel needs of the city with respect to all kinds of energy, prepare intermediate and long range plans, goals and programs designed to meet such needs, establish priorities, among them, to study, organize, promote, coordinate and carry out activities, projects and programs designed to encourage fuel and energy conservation,



alternate sources of fuel and energy and encourage, stimulate and foster others in these programs and goals.

h. Emergency response. The commissioner shall have the power to respond to emergencies caused by releases or threatened releases of hazardous substances into the environment. The commissioner may (1) implement any response measures deemed to be necessary to protect the public health or welfare or the environment from a release or threat of release, (2) order responsible persons to undertake response measures, and (3) recover the costs of response measures incurred by the department from responsible persons.

(i) Community right-to-know. The commissioner shall have the power to collect, compile and manage information concerning the amount, location and nature of hazardous substances present in the city. This information shall be made available to city personnel responsible for responding to emergencies involving hazardous substances and the public.

Sec. 1404. Environmental control board. a. There shall be in the department an environmental control board consisting of the commissioner, who shall be chairman, the commissioner of sanitation, the commissioner of buildings, the commissioner of health, the police commissioner, the fire commissioner and the commissioner of consumer affairs, all of whom shall serve on the board without compensation and all of whom shall have the power to exercise or delegate any of their functions, powers and duties as members of the board, and six persons to be appointed by the

mayor, with the advice and consent of the city council, who are not otherwise employed by the city, one to be possessed of a broad general background and experience in the field of air pollution control, one with such background and experience in the field of water pollution control, one with such background and experience in the field of noise pollution control, one with such background and experience in the real estate field, one with such background and experience in the business community, and one member of the public, and who shall serve for four-year terms. Such members shall be compensated at the rate of one hundred fifty dollars per day when performing the work of the board. Within its appropriation, the board may appoint an executive director and such hearing officers, including non-salaried hearing officers and other employees as it may from time to time find necessary for the proper performance of its duties.

b. The environmental control board may adopt and amend regulations not inconsistent with any provision of law:

(1) regulating or prohibiting the emission into the open air from any source, whether fixed or movable, and whether on land or waters of any harmful or objectionable substances including, but not limited to, smoke, soot, dust, fumes, flash, gas vapors and odors, and the installation, construction or alteration of equipment giving forth such emissions into the open air insofar as such emissions are effected thereby; and

(2) regulating or prohibiting the emission into the waters within and about the city of New York from any source whether

fixed or movable and whether on land or water of any harmful or objectionable substances, contaminants and pollutants.

c. (1) The environmental control board shall enforce the provisions of the charter and the administrative code, and any rules and regulations made thereunder, which relate to:

- (a) the cleanliness of the streets;
- (b) the disposal of wastes;
- (c) the provision of a pure, wholesome and adequate supply of water;
- (d) the prevention of air, water and noise pollution;
- (e) the regulation of street peddling;
- (f) the prevention of fire and danger to life and property therefrom which are within the jurisdiction of the fire department and which the fire commissioner shall designate by rule or regulation;
- (g) the construction, alteration, maintenance, use, occupancy, safety, sanitary condition, mechanical equipment and inspection of buildings or structures in the city which are within the jurisdiction of the department of buildings and which the commissioner of buildings shall designate by rule or regulation;
- (h) the response to emergencies caused by releases or threatened releases of hazardous substances; and
- (i) the reporting of information relating to the amount, location and nature of hazardous substances, and the labeling of hazardous substances.

(2) The board shall have concurrent jurisdiction with the board

of health to enforce those provisions of the health code and the rules and regulations relating thereto which the board of health shall designate.

(3) The board shall have authority from time to time to make, amend and rescind such rules and regulations as may be necessary to carry out its duties under this subdivision.

d. (1) (a) The environmental control board shall conduct proceedings for the adjudication of violations of the laws, rules and regulations enforced by it pursuant to the provisions of subdivision c of this section or of any other law providing for enforcement by the environmental control board in accordance with this paragraph (1) and with rules and regulations promulgated by the board, and shall have the power to render decisions and orders and to impose the civil penalties provided under law for such violations.

(b) The form and wording of notices of violation shall be prescribed by the board. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

(c) The notice of violation shall contain information advising the person charged of the manner and the time in which such person may either admit or deny the violation charged in the notice. Such notice of violation shall also contain a warning to advise the person charged that failure to plead in the manner and time stated in the notice may result in a default decision and order being



entered against him. The original or a copy of the notice of violation shall be filed and retained by the board and shall be deemed a record kept in the ordinary course of business.

(d) Where a respondent has failed to plead within the time allowed by the rules of the board or has failed to appear on a designated hearing date or a subsequent date following an adjournment, such failure to plead or appear shall be deemed, for all purposes, to be an admission of liability and shall be grounds for rendering a default decision and order imposing a penalty in the maximum amount prescribed under law for the violation charged.

(e) Any final order of the board imposing a civil penalty, whether the adjudication was had by hearing or upon default or otherwise, shall constitute a judgment rendered by the board which may be entered in the civil court of the city of New York or any other place provided for the entry of civil judgments within the state, and may be enforced without court proceedings in the same manner as the enforcement of money judgments entered in civil actions; provided, however, that no such judgment shall be entered which exceeds the sum of ten thousand dollars for each respondent.

(f) Notwithstanding the foregoing provision, before a judgment based upon a default may be so entered the board must have notified the respondent by first class mail in such form as the board may direct:

(i) of the default decision and order and the penalty imposed;

(ii) that a judgment will be entered in the civil court of the

city of New York or any other place provided for the entry of civil judgments within the state of New York; and

(iii) that entry of such judgment may be avoided by requesting a stay of default for good cause shown and either requesting a hearing or entering a plea pursuant to the rules of the board within thirty days of the mailing of such notice.

(g) A judgment entered pursuant to this paragraph shall remain in full force and effect for eight years.

(h) Notwithstanding any inconsistent provision of section fifteen hundred four of the New York city civil court act, an execution with respect to a judgment of the board arising out of any violation of a provision of chapter thirty-one of the administrative code of the city of New York shall be directed only to the sheriff.

(2) The environmental control board shall not enter any final decision or order pursuant to the provisions of paragraph one of this subdivision unless the notice of violation shall have been served in the same manner as is prescribed for service of process by article three of the civil practice law and rules or article three of the business corporation law, except that;

(i) service of a notice of violation of any provisions of the charter or administrative code the enforcement of which is the responsibility of the fire commissioner, the commissioner of buildings or the commissioner of environmental protection and over which the environmental control board has jurisdiction, may be made by delivering such notice to a person employed by the

respondent on the premises the occupancy of which caused such violation; and

(ii) service of a notice of violation of any provision of the charter or administrative code, the enforcement of which is the responsibility of the commissioner of sanitation and over which the environmental control board has jurisdiction, may be made by affixing such notice in a conspicuous place to the premises, the occupancy of which caused such violation. Such notice may only be affixed or delivered pursuant to items (i) and (ii) above where a reasonable attempt has been made to deliver such notice to a person in such premises upon whom service may be made as provided for by article three of the civil practice law and rules or article three of the business corporation law. When a copy of such notice has been affixed or delivered, pursuant to items (i) and (ii) above, a copy shall be mailed to the person at the address of such premises and, if the respondent is the owner or agent of the building with respect to which such notice was issued and the identity of and an address for such person is contained in any of the files specified in subparagraphs (a), (b) and (c) of this paragraph, a copy of the notice shall also be mailed: (a) to the person registered with the department of housing preservation and development as the owner or agent of the premises, at the address filed with such department in compliance with article forty-one of title D of chapter twenty-six of the administrative code; or

(b) to the person designated as owner or agent of the building

or designated to receive real property tax or water bills for the building at the address for such person contained in one of the files compiled by the department of finance for the purpose of the assessment or collection of real property taxes and water charges or in the file compiled by the department of finance from real property transfer forms filed with the city register upon the sale or transfer of real property; or

(c) to the person described as owner or agent of the premises, at the address for such person contained in the files of the agency which issued such notice of violation compiled and maintained for the purpose of the enforcement of the provisions of the charter or administrative code or other law over which such agency has jurisdiction. Proof of such service shall be filed with the Environmental Control Board within twenty days; service shall be completed within ten days after such filing.

(3) The environmental control board may apply to a court of competent jurisdiction for enforcement of any other decision or order issued by such board or of any subpoena issued by such board



CHAPTER 58  
DEPARTMENT OF FINANCE

Sec. 1501. Department; commissioner. There shall be a department of finance, the head of which shall be the commissioner of finance.

Sec. 1502. Deputies. The mayor may appoint three deputy commissioners. The commissioner and deputy commissioners shall provide a bond.

Sec. 1503. Powers and duties of the commissioner. [The commissioner shall have the power to exercise any of the functions, powers and duties vested in him or in the department by this chapter or otherwise.] In the performance of his functions, the commissioner shall have, in addition to such others as may be conferred upon him from time to time by law, the power and duty:

[1. to analyze the needs of the city with respect to the matters within the jurisdiction of the department, prepare intermediate and long range programs designed to meet such needs, and establish priorities among them;

2. to prepare and transmit the budget estimates of the department as prescribed by law;

3. to supervise the execution and management of all programs, activities and expenditures of the department; and

4.] to prepare and disperse payroll checks upon a master

warrant prepared by the comptroller as prescribed in the administrative code.

Sec. 1504. Functions of the department. Except as otherwise provided by law, the department shall perform those functions and operations of the city which relate to the administration and collection of all taxes, assessments and charges imposed by the city, the collection of arrears due the city and all other sums due the city, including state and federal aid, the receipt and safekeeping of all moneys paid into the city treasury and payment of money out of the treasury, and the administration and management of certain trust funds held by the city, including, without limitation, the following;

1. Real property assessment. With respect to real property tax assessment, the department shall assess for taxation all the taxable real property in the city and prepare the assessment rolls. The commissioner shall appoint, within the appropriation therefor, as many assessors as shall be necessary for the performance of such functions in accordance with the provisions of this chapter.

2. Tax collection. a. The department shall administer all excise and non-property taxes imposed or administered by the city. With respect to such taxes, the department shall have the power to settle and adjust all claims in favor of or against the city and to make determinations in contested cases. For such purposes, the commissioner or his delegate may hold hearings and administer oaths.

b. The department shall collect all real property taxes, water and sewer charges, other assessments and arrears against real property and all other taxes, assessments and arrears payable to the city.

3. Deposit and payment of moneys in the city treasury; trust funds.

a. The department shall have the power and duty to provide for the reception and safekeeping of all moneys paid into the treasury of the city and for the payment of all moneys on warrants drawn by the comptroller and countersigned by the commissioner.

b. The department shall administer and manage all trust funds received or held by the city pursuant to a judgment, decree or order of any court or under section eleven hundred twenty-three of the surrogate's court procedure act, section ninety-nine-m of the general municipal law, section eighty-seven of the social services law, sections four hundred twenty-six and four hundred thirty-two of the real property law, section two hundred four of the lien law, section two hundred twenty-five of the family court act and section five hundred fifty-three of the county law, and in such administration it shall be deemed to be acting in a fiduciary capacity. The department shall provide for the receipt and safekeeping of all such moneys of the trust funds held by the city and disburse the same on warrants signed by the comptroller.

c. (i) Notwithstanding any provision of law to the contrary and unless otherwise determined by the court which directed payment of the funds in the first instance, for purposes of administering and

managing the trust funds, other than cemetery trust funds, enumerated in paragraph b of this subdivision, whenever the department is permitted or required by law to deposit such funds in a savings bank, trust company, bank, or banking association, or to invest such funds in its discretion or in legal investments for trustees or savings banks, the department may combine all such trust funds into one or more common trust funds, which may be deposited in such savings banks, trust companies, banks or banking associations as are designated by the state comptroller pursuant to section one hundred eighty-two of the state finance law, or invested in legal investments for trustees or savings banks. Such funds, when deposited in a savings bank, trust company, bank or banking association, may be placed in demand or time deposit accounts, including time certificates of deposit, and such deposits shall be either insured by a federal deposit insurance corporation or fully collateralized by securities acceptable to the state comptroller. (ii) The department may retain trust funds temporarily pending investment or deposit or to meet cash requirements in connection with the deposit or withdrawal of such funds, but such temporary retention of trust funds shall not deprive any owner or beneficiary of any income therefrom to which he would otherwise be entitled by law.

(iii) When trust funds are received by the department it shall forthwith open and maintain a separate ledger account for each action, proceeding or matter and shall keep an exact accounting of all such funds and all income earned thereon in such manner as the



state comptroller may prescribe.

Sec. 1505. Real property tax assessment. The department shall have those powers and duties with respect to the assessment of real property for taxation as are prescribed by this chapter and, in addition such other powers and duties as may be conferred upon it by law. The department shall maintain in each borough an office for the performance of such powers and duties.

Sec. 1506. Duties of the assessors. The assessors, under the direction of the commissioner, shall assess all the real property in the several districts that may be assigned to them by the commissioner and shall prepare the assessment rolls. The term "assessment" shall mean a determination by the assessors of

(a) the taxable status of real property as of the taxable status date; and

(b) the valuation of real property, including the valuation of exempt real property, and where such property is partially exempt, the valuation of both the taxable and exempt portions.

Sec. 1507. Taxable status of property. The taxable status of all real property assessable for taxation in the city shall be fixed for the succeeding fiscal year on the fifth day of January in each year.

Sec. 1508. Assessment of real property. The assessors shall commence to assess real estate on the first day of July in each year not a Sunday or holiday.

Sec. 1509. Statement of assessed valuation. An assessor or other person designated by the commissioner shall compute from the

annual record of the assessed valuation of real estate in each borough the total aggregate amount of the assessed valuation of real property appearing on such annual record for such borough, and shall transmit a statement of such aggregate amount to the commissioner on or before the fifth day of January in each year.

Sec. 1510. Annual record of assessed valuation; public inspection. The books of the annual record of the assessed valuation of real estate shall be opened to the public not later than the fifteenth day of January in each year, not a Sunday or legal holiday, and remain open during the usual business hours for public inspection and examination until the first day of March thereafter. The commissioner, previous to and during the time such books are open to public inspection, shall advertise such fact in the City Record and in such other newspaper or newspapers published in the several boroughs as may be authorized by the director of the City Record with the approval of the mayor and the comptroller.

Sec. 1511. Notice of increase in assessed valuation of real property. The department or division responsible for the assessment of real property shall, upon an increase in assessed valuation of real property, notify the owner, as recorded in said department or division, of such increase by first-class mail at least thirty days prior to the final date for filing any appeal. The department or division shall notify the commissioner of the mailing of such notices by the filing of an affidavit of such mailing in the main office of the department.

Sec. 1512. Annual record of assessed valuation, additions and changes. During the time the books of the annual record of the assessed valuation of real estate remain open for public inspection and examination, and, in the case of real estate other than residential real estate, during an additional period ending the tenth day of May in each year, the commissioner may place on such books any real estate and also the assessed valuation of any such real estate that may have been omitted from such books on the day of the opening thereof, and he may increase or diminish the assessed valuation of any real estate as in his judgment may be just or necessary for the equalization of taxation; excepting that in nineteen hundred and eighty-three, the commissioner may diminish the assessed valuation of improved real estate with taxes under \$2,500 annually until the 25th day of May; but no such addition to the books and no such increase in assessed valuation shall be made, except upon mailing ten days' prior written notice addressed to the person whose name appears on the records in the office of the city collector as being the owner or agent of the owner of the real estate affected thereby at the least known address of such owner or agent. Where no name appears on such records such notice shall be sent to the premises addressed to either the owner or agent. An affidavit of such mailing shall be filed in the main office of the department. When such notice is mailed after the first day of February, such owners may apply for a correction of such assessment so added or so increased within twenty days after the mailing of such notice with the same force

and effect as if such application were made on or before the first day of March in such year. For purposes of this section the term "residential real estate" shall include but not be limited to one and two-family homes and multiple dwellings (including co-operative and condominium dwelling units), but shall not include hotels, apartment hotels and motels.

Sec. 1513. Apportionment of assessments. When any separately assessed parcel of real estate shall have been divided prior to the first day of June, the commissioner may apportion the assessment thereof in such manner as may be provided by law.

Sec. 1514. Assessment rolls; preparation and delivery. 1. Commencing immediately after the closing of public inspection and examination of the books of annual record of the assessed valuation of real estate, the commissioner shall cause to be prepared from such books assessment rolls for each borough in such manner as shall be provided by law.

2. As soon as such rolls are completed, the commissioner shall annex to each of such rolls his certificate that the same is correct in accordance with the entries and corrected entries in the several books of annual record. The rolls so certified must, on or before the twentieth day of June in each year, be delivered by the commissioner to the council.

Sec. 1515. Statement and estimate by the mayor. a. The mayor shall prepare and submit to the council, immediately upon the adoption of a single budget pursuant to section one hundred twenty, a statement setting forth the amount of the budget as



approved by the council and board of estimate for the ensuing year and the mayor shall prepare and submit to the council not later than the fifth day of June an estimate of the probable amount of

(1) receipts into the city treasury during the ensuing fiscal year from all the sources of revenue of the general fund and

(2) all receipts other than those of the general fund and taxes on real property. The mayor may include in his statement of the amount of the budget as approved by the council and board of estimate his confirmation of such amount, and thereby waive his veto power pursuant to section one hundred twenty-one of the charter.

b. If, as a result of the exercise of the mayor's veto pursuant to section one hundred twenty-one, the amount of the budget for the ensuing fiscal year differs from the amount of the budget approved by the board of estimate and the council pursuant to section one hundred twenty, not later than the twenty-second day of June the mayor shall prepare and submit to the council a statement setting forth the amount of the budget for the ensuing year, and the council shall, if necessary, fix a new annual tax rate pursuant to subdivision c of section one thousand five hundred sixteen.

Sec. 1516. Fixing of tax rate. a. The council shall fix the annual tax rate immediately upon the approval of the budget pursuant to section one hundred twenty. The council shall deduct the total amount of receipts as estimated by the mayor from the

amount of the budget, for the ensuing fiscal year, and shall cause to be raised by tax on real property such sum as shall be as nearly as possible but not less than, the balance so arrived at, by fixing a tax rate in cents and thousandths of a cent upon each dollar of assessed valuation. The tax rate shall be such to produce a balanced budget within generally accepted accounting principles for municipalities.

b. If a single budget has not been adopted by the fifth day of June pursuant to subdivision b of section one hundred twenty, the tax rate adopted for the current fiscal year shall be deemed to have been extended for the new fiscal year until such time as a new budget is adopted.

c. In the event the mayor exercises the veto power pursuant to section one hundred twenty-one, the council shall, if necessary, fix a new annual rate not later than the twenty-third day of June, in accordance with the requirements of subdivision a of this section.

Sec. 1516-a. Notwithstanding provisions of sections fifteen hundred sixteen, fifteen hundred seventeen and fifteen hundred eighteen of the charter or any other provisions of law to the contrary:

(a) If the city council has not fixed the tax rate for the ensuing fiscal year pursuant to section fifteen hundred sixteen of the charter on or before the fifth day of June, the commissioner of finance shall be authorized to complete the assessment rolls using an estimated rate and to collect the sums therein mentioned

according to law. The estimated rate shall equal the tax rate for the current fiscal year.

(b) If, subsequent to the fifth day of June, the council shall, pursuant to section fifteen hundred sixteen of the charter, fix the tax rate for the ensuing fiscal year at a percentage differing from the estimated rate, real estate tax payment shall nevertheless be payable in accordance with subdivision (a) of this section at the estimated rate. However, in such event, prior to the first day of January in such fiscal year, the commissioner of finance shall cause the completed assessment rolls to be revised to reflect the tax rate fixed by the council pursuant to section fifteen hundred sixteen of the charter, and an amended bill for the installment or installments for such fiscal year due and payable on or after the first day of January shall be submitted to each taxpayer in which whatever adjustment may be required as a result of the estimated bill previously submitted to the taxpayer shall be reflected.

Sec. 1517. Completion of assessment rolls. At such annual meeting the council shall cause to be set down in the assessment rolls, opposite to the several sums set down as the valuation of real property, the respective sums, in dollars and cents, to be paid as a tax thereon, rejecting the fractions of a cent. It shall also cause to be added and set down the aggregate valuations of the real property in the several boroughs, and shall transmit to the comptroller of the state by mail a certificate of such aggregate valuation in each borough.

Sec. 1518. Collection of the real property tax. 1.

Immediately upon the completion of the assessment rolls, the city clerk shall procure the proper warrants authorizing and requiring the commissioner to collect the several sums therein mentioned according to law. Such warrants need be signed only by the president of the council and counter-signed by the city clerk. Immediately thereafter and on or before the thirtieth day of June, the assessment rolls of each borough, as corrected according to law and finally completed, or a fair copy thereof, shall be delivered by the president of the council to the commissioner with the proper warrants, so signed and counter-signed, annexed thereto. At the same time the president of the council shall notify the comptroller of the amount of taxes in each book of the assessment rolls so delivered.

2. The commissioner upon receiving the assessment rolls and warrants shall immediately cause the assessment rolls and warrants to be filed in the respective borough offices.

Sec. 1519. Real property taxes due and payable. The commissioner, immediately after receiving the assessment rolls, shall give notice for at least five days in the City Record that the assessment rolls have been delivered to him and that all taxes shall be due and payable at his offices as follows:

1. a. With respect to all properties which are:

(1) real property with an assessed valuation of forty thousand dollars or less on such assessment roll, except such property held in a cooperative form of ownership; and



(2) real property held in a cooperative form of ownership, provided that the assessed valuation on such assessment roll of such property divided by the number of dwelling units contained in such property shall equal forty thousand dollars or less; all taxes upon real estate for each fiscal year shall be due and payable in four equal installments each of which shall be due and payable in such year as follows: the first payment on the first day of July, the second payment on the first day of October, the third payment on the first day of January, the fourth payment on the first day of April. However, if any property is acquired by the city in condemnation proceedings, the proportionate share of the amount of the tax on such property which would be due and payable on the next succeeding installment date, shall be due and payable on the date when the title to such property vests in the city.

b. With respect to real property other than such property listed in paragraph a of this subdivision one:

(1) For the fiscal year commencing on the first day of July nineteen hundred eighty-two: all taxes upon real estate shall be due and payable in three installments as follows: the first payment, consisting of one-fourth of the total amount payable for the year, shall be due and payable on the first day of July, the second payment, consisting of one-fourth of the total amount payable for the year, shall be due and payable on the first day of September, and the third payment, consisting of one-half of the total amount payable for the year, shall be due and payable on the

first day of January. However, if any property is acquired by the city in condemnation proceedings, the proportionate share of the amount of the tax on such property which would be due and payable on the next succeeding installment date, shall be due and payable on the date when the title to such property vests in the city.

(2) For the fiscal year commencing on the first day of July nineteen hundred eighty-three and for each fiscal year thereafter: all taxes upon real estate for each fiscal year shall be due and payable in two equal installments, the first of which shall be due and payable on the first day of July in such year, and the second of which shall be due and payable on the first day of January in such year. However, if any property is acquired by the city in condemnation proceedings, the proportionate share of the amount of the tax on such property which would be due and payable on the next succeeding installment date, shall be due and payable on the date when the title to such property vests in the city.

2. All taxes shall be and become liens on the real estate affected thereby and shall be construed as and deemed to be charged thereon on the respective days when they become due and payable, and not earlier, and shall remain such liens until paid.

3. Any installment of taxes on real estate for any fiscal year may be paid, in full or in part, twenty-five days prior to the date on which the first installment for such fiscal year would otherwise become due and payable or at any time thereafter and, provided that payment of any installment or part thereof is made not later than fifteen days prior to the date that such

installment would otherwise become due and payable and provided that all prior installments shall have been paid or shall be paid at the same time, a discount shall be allowed from the date of payment of such installment or part thereof to and including the fifteenth day of the calendar month on which such installment would otherwise become due and payable at the rate fixed by the council and a receipt shall be furnished to the extent of such payment and the discount thereon. Upon payment of any such installment or part thereof prior to the date such installment would otherwise become due and payable, such installment or part thereof shall be deemed due and payable and shall be satisfied and extinguished to the extent of the amount so paid plus the discount provided for herein. Not later than the fifteenth day of May in each year, the banking commission shall transmit a written recommendation to the council of the proposed discount rate for the ensuing fiscal year. The council may adopt a discount rate for such ensuing fiscal year on the fifth day of June preceding such ensuing fiscal year or at any time thereafter. As used in this subdivision, the words "taxes on real estate," in the case of utility companies, shall also include special franchise taxes.

Sec. 1520. Interest and penalties on real property taxes. The commissioner shall charge, receive and collect the interest and penalties upon taxes on real estate not paid when due and payable in such manner and at such rates as shall be provided by law, provided, however, where such taxes are not escrowed, and where such interest does not exceed five dollars, it shall be

forgiven.

Sec. 1521. Right of entry. The commissioner or any assessor may, in accordance with law, enter upon real property and into buildings and structures at all reasonable times to ascertain the character of the property. Refusal by the owner or his agent to permit such entry shall be a misdemeanor triable by a judge of the criminal court of the city of New York and punishable by not more than thirty days' imprisonment or a fine of not more than fifty dollars, or both.

Sec. 1522. Warrants. No money shall be paid out of the treasury except on a warrant authorized by law, signed by the comptroller and countersigned by the commissioner of finance which shall refer to the law under and to the appropriation against which it is drawn. No warrant shall be paid on account of any appropriation after the amount authorized to be raised for the purpose specified in the appropriation shall have been expended. In counter-signing warrants drawn by the comptroller, the commissioner shall be under no duty of inquiring as to the legality or propriety thereof but may rely on the comptroller's signature thereto.

Sec. 1523. Deposits. 1. The commissioner shall deposit all moneys which shall come into his hands on account of the city on the day of receipt thereof, or on the business day next succeeding, in such banks and trust companies as shall have been designated as deposit banks, but no amount shall be on deposit at any one time in any one bank or trust company exceeding one-half



of the amount of the capital and net surplus of such bank or trust company. The moneys so deposited shall be placed to the account of the commissioner and he shall keep a [bank-book] record in which shall be entered his accounts of deposit in, and moneys drawn from, the banks and trust companies in which the deposits shall be made. Each such bank and trust company shall transmit to the comptroller a weekly statement of the moneys which shall be received and paid by it on account of the commissioner.

2. The commissioner shall draw moneys of the city from said banks or trust companies only by checks subjoined and attached to warrants and subscribed by him, and no moneys shall be paid by any such banks or trust companies on account of the commissioner except upon such checks; but this provision shall not apply to transfer checks transferring such funds from one city depository to another.

Sec. 1524. Deposit banks. 1. The banking commission which consists of the mayor, the commissioner and the comptroller shall, by majority vote, by written notice to the commissioner, designate the banks or trust companies in which all moneys of the city shall be deposited, and may by like notice in writing from time to time change the banks and trust companies thus designated.

2. a. Except as provided in paragraph b of this subdivision, no bank or trust company shall be designated pursuant to this section unless:

(1) it shall agree to pay into the city treasury interest on the daily balances at a rate which the banking commission shall,

by a majority vote, fix quarterly on the first day of February, May, August, and November in each year, according to the current rate of interest upon like balances deposited in banks and trust companies in the city by private persons or corporations;

(2) it shall file with the banking commission and city clerk a certificate signed by the president or other duly authorized officer of such bank setting forth that its board of directors has established and will adhere to a policy of hiring and promotion of employees and officers without regard to race, color, creed, religious affiliation, sex [or] , national origin or sexual orientation which certificate shall further set forth affirmatively the steps taken by the bank or trust company to implement said policy; and

(3) it does not provide the following services, either directly or through a subsidiary or agent, to the government of the Republic of South Africa:

(a) advertising or otherwise promoting the sale, outside of the Republic of South Africa or Namibia, of krugerrands or other coins minted in the Republic of South Africa or Namibia,

(b) underwriting securities of the government of the Republic of South Africa, or

(c) making loans to such government, other than loans for educational, housing or health facilities available to all persons on a totally nondiscriminatory basis and located in geographic areas accessible to all population groups without any legal or administrative restrictions.

b. The commission may designate a bank or trust company which does not meet the criteria set forth in clause three of paragraph a of this subdivision upon a determination, made in writing and forwarded to the council, that deposit of city moneys in such bank or trust company is necessary to obtain essential services which are not reasonably obtainable from another bank or trust company. If the banking commission by majority vote shall decide that such policy not to discriminate or provide services to the government of the Republic of South Africa has been violated after giving the bank or trust company an opportunity to be heard, then upon giving thirty days' notice to the bank or trust company such designation may be revoked.

3. The commissioner may, with the approval of the comptroller, make time deposits of city moneys, for a period not to exceed six months, in any bank or trust company designated for deposit of city funds. Each such bank or trust company shall before deposits are made, other than such as are of a temporary character and specifically relate to the current business of the city, execute and file with the commissioner a bond to the city in such form and in such amount as may be prescribed and approved by the commissioner and the comptroller for the safekeeping and prompt payment of city moneys on demand with interest at the rate agreed upon and, as security for such funds, shall deposit with the comptroller outstanding unmatured obligations [issued by the city,] the value of which at the existing prices on the open market shall be equal to the estimated amount of the proposed

deposit, for which the comptroller shall deliver a certificate of deposit containing the condition of such bond of the United States of America, or any obligation fully guaranteed or insured as to interest and principal by the United States of America acting through an agency, subdivision, department or division thereof, obligations of the state of New York or obligations of the city of New York.

4. On the withdrawal of all or a part of the funds deposited in any depository and a closing or depleting of the account thereof, or in the event of the deposit actually made being less than the estimated amount of such deposit, the commissioner and the comptroller shall certify to such settlement or depletion or difference and direct the surrender of the whole or a proportionate share of the securities so deposited to the owner or owners thereof.

Sec. 1525. City register. 1. There shall be within the department a city register who shall be appointed by the mayor.

2. The functions, powers and duties formerly exercised by the registers or registrars of the several counties shall remain with the city register.

Sec. 1527. Contracts with collection agencies. 1. Notwithstanding any other provisions of law to the contrary, the commissioner may enter into contracts with collection agencies for the collection of

(i) any or all tax warrants and judgments for all city taxes subject to collection by the department, other than real property



taxes, or

(ii) city water and sewer charges, or both, provided however, that any such contract shall be subject to the provisions of section three hundred forty-three of this charter.

2. Any such contract shall apply only to such tax warrants and judgments and to such water and sewer charges as the commissioner may refer to the collection agency, and shall be terminable at the will of the commissioner.

3. The consideration to be paid to such collection agency may be a percentage or percentages of the amount collected by such agency, or as otherwise provided in the contract, but shall be within the amount appropriated and available for such purpose.

4. No legal action to collect tax warrants and judgments or water and sewer charges under any contract entered into pursuant to this section shall be initiated without the express written permission of the corporation counsel, and the selection of any attorney to take such legal action shall be subject to the approval of the corporation counsel.

5. Before beginning performance of a contract authorized by subdivision one of this section, the contracting collection agency shall give security for faithful performance and shall provide such insurance policies, including but not limited to a comprehensive general liability insurance, naming the city as a party in interest, as the board of estimate may require. The adequacy and sufficiency of such security and insurance policies, as well as the justification and acknowledgement thereof, shall

be subject to the approval of the comptroller. The commissioner, in his discretion, may require additional security or insurance in such amounts and running to such city officers and employees as the commissioner may require, to indemnify them for any liability incurred by reason of any act or omission of such collection agency.

6. No contract entered into pursuant to this section may be so worded as to grant to any contracting collection agency the exclusive right to perform any work authorized by this section.

## CHAPTER 59

## DEPARTMENT OF GENERAL SERVICES

Sec. 1600. Department; commissioner. There shall be a department of general services, the head of which shall be the commissioner of general services.

Sec. 1601. Deputies. The commissioner may appoint four deputies, one of whom shall be first deputy commissioner.

Sec. 1602. Powers and duties of the commissioner. Except as otherwise provided by law, the commissioner shall have the power and it shall be the commissioner's duty to perform all the functions and operations of the city of New York relating to the construction, maintenance and care of public buildings and structures, the acquisition and disposal of personal property, the provision to city agencies of other than personal services, the acquisition, management, sale or lease by the city of real property other than housing, the provision of automotive, communication and data processing services, [the custody and maintenance of public records of the city,] the provision, regulation and control of electrical activities and similar services, including without limitation, the following:

1. Public buildings and structures. With respect to public buildings and structures the commissioner shall have the following powers and duties:

- (a) to have charge and control over the plans and specifications for and the construction of all buildings and

structures paid for in whole or in part from the city treasury;

(b) to manage, alter, repair, operate, maintain and clean buildings, structures and offices leased or occupied for public use by more than one city agency whose management, alteration, repair, operation, maintenance or cleaning is paid for in whole or in part from the city treasury, and as directed by the mayor, to perform services in space occupied for public use by a single city agency;

(c) except for the provisions of chapter nine of this charter, to employ when in the commissioner's opinion such services are necessary or desirable, subject to the approval of the mayor and in accordance with the provisions of section three hundred forty-nine of this charter, qualified consultants in private practice to aid the commissioner in carrying out his duties and responsibilities with respect to public building or structures; such consulting or advisory services shall be performed under the supervision of the commissioner;

(d) to consult with the agencies for whose use the buildings or structures are intended in preparing and considering plans and specifications and in carrying out such plans and specifications, and to consider any recommendations made by such agency. Notwithstanding the provisions of this subdivision one, the exercise of the powers and duties set forth herein shall be subject to the jurisdiction of any city agency performing urban renewal and public and publicly-aided housing functions to the extent, and in such areas, as directed by the mayor;



(e) to exercise and perform such other powers and duties as may be prescribed by law or delegated to him in relation to laboratory testing of commodities and construction materials.

2. Supply services. With respect to the procurement and disposal of personal property and the procurement of other than personal services, the commissioner shall have the following powers and duties:

(a) the power to purchase, inspect, store and distribute all supplies, materials or equipment required by any city agency, except as otherwise provided by law, or by any office of any county wholly included in the city for which supplies, materials or equipment are required, payment for which is made from the city treasury;

(b) to establish and maintain one or more city storehouses, to operate therein a uniform, modern system of stores control based upon perpetual inventory and maintain a sufficient stock of staple commodities on hand to supply the estimated current needs of the agencies for which the commissioner is authorized to purchase. All purchases other than such purchases for stock for estimated needs and all deliveries from such stock shall be upon justified requisitions. The commissioner shall also oversee the establishment of efficient and economical systems of stores control in other city agencies and review the operations of such storehouses to assure their efficient and economical management;

(c) to receive all old or waste material and other personal property discarded, replaced or not required in storehouses or by

any agency for which the commissioner has the power to make purchases and all such agencies shall surrender such property to the commissioner who shall dispose thereof pursuant to rules and regulations promulgated by him governing its redistribution, exchange, transfer, sale or other disposition;

(d) to procure, supply and manage contractual services other than personal or professional services for the use of city agencies;

(e) to promulgate and codify rules and regulations governing the purchase, payment, storage, delivery of supplies and equipment by agencies of the city and the disposal of unusable and obsolete materials, and to supervise their enforcement;

(f) to classify all supplies, materials and equipment; to adopt as standards the minimum number of qualities, sizes and types of commodities consistent with efficient operation and life cycle costs; and to promulgate and enforce written specifications for all such standard commodities.

3. Real property. With respect to real property, the commissioner shall have the following powers and duties:

(a) to exercise and perform the powers and duties imposed by law upon the board of estimate relating to the acquisition, selling, leasing, exchanging or otherwise disposing of real property of the city and the assignment to city agencies of space owned or leased by the city. The commissioner shall also undertake comprehensive and continuing programs to manage utilization of space owned or leased by the city and to establish

standards, conduct surveys of space utilization and assign space to all city agencies except as otherwise provided by law;

(b) to manage and superintend all real property of the city not used for public purposes, including real property acquired for a public purpose and not being currently utilized for such purpose, but the commissioner shall not manage and superintend wharf property, real property under the jurisdiction of the department of housing preservation and development, real property under the jurisdiction of the New York city transit authority, real property under the jurisdiction of the New York city housing authority by virtue of an authorization granted by the mayor pursuant to the provisions of subdivision three of section one hundred twenty-five of the public housing law, or except as otherwise provided by law, real property under the jurisdiction of the triborough bridge and tunnel authority;

(c) to exercise and perform such other powers and duties as may be prescribed by law or delegated to him in relation to the acquisition, disposition, demolition or other treatment of real property of the city;

(d) to employ, where desirable, managing agents to manage city properties and collect rents therefrom and pay bills, pursuant to rules and regulations promulgated by him and approved by the board of estimate.

4. Communications. With respect to communications facilities, the commissioner shall have the following powers and duties:

(a) [Municipal broadcasting system:] WNYC Communications

Group: to maintain, operate and administer in conformance with all federal, state and local laws and to use the facilities of such [system as an adjunct to] group in order to assist any agency which shall require and use such service and also for the instruction, enlightenment, entertainment, recreation and welfare of the inhabitants of the city by the broadcast of any matters which are deemed appropriate and necessary for the public interest and advantage and to connect such facilities with any broadcasting station to unite in the broadcasting of such matters and activities;

(b) Communication facilities: except for emergency or other special communication facilities, to provide to city agencies such telephone, radio, television or other communications facilities as they may require for the effective discharge of their responsibilities;

(c) City Record:

(i) There shall be published daily, except Saturdays, Sundays and legal holidays, under contract or by the department, a paper to be known as the City Record;

(ii) there shall be inserted in the City Record nothing aside from such official matters as are expressly authorized;

(iii) all advertising required to be done for the city, except as otherwise provided by law, shall be inserted at the public expense in the City Record and a publication therein shall be sufficient compliance with any law requiring publication of such matters or notices;



(iv) nothing herein contained shall prevent the publication elsewhere of any advertisement required by law to be so published; provided, however, that no such publication shall be made unless the same is authorized by the commissioner with the approval of the mayor and the comptroller and in a newspaper, magazine, journal or periodical designated by the commissioner with the approval of the mayor and the comptroller;

(v) the comptroller shall cause a continuous series of the City Record to be bound as completed quarterly and to be deposited with his certificate thereon in the office of the city register, in the county clerk's office of each county and in the office of the city clerk; and copies of the contents of any part of the same, certified by such register, county clerk or city clerk, shall be received in judicial proceedings as prima facie evidence of the truth of the contents thereof;

5. Data processing services. The commissioner shall operate one or more data processing service centers providing data processing equipment, programming services, and computer systems analysis services for city agencies when necessary or desirable, in accordance with executive orders promulgated by the mayor.

6. Gas and electricity. With respect to gas and electricity, the commissioner shall have charge and control of furnishing the city or any part thereof, by contract or otherwise, with gas, electricity or any other illuminant or steam, except such functions as are exercised by the public utility service of the city.

7. Automotive services. To acquire by purchase, lease or otherwise, vehicles and other automotive equipment for the use of city agencies; to manage, maintain, store and operate a fleet of motor vehicles; to assign such fleet in accordance with the direction of the mayor and to operate shops, yards, garages, fuel depots and other facilities required for the effective and economical use and maintenance of such fleet.

Sec. 1603. Right of entry. The commissioner, officers and employees of the department may, in accordance with law, enter upon public or private property for the purpose of making surveys, borings or other investigations necessary for the exercise of the powers or the performance of the duties of the commissioner and the department. Refusal to permit such entry shall be a misdemeanor punishable by not more than thirty days' imprisonment or by a fine of not more than fifty dollars, or both.

Sec. 1604. Maintenance of master list of leases. The department shall keep, maintain and annually update a master list of leases wherein the city or its agencies is a tenant. Such master list shall contain at least the following information: name and address of lessor, location wherein lease property is situated, base rent, square footage, escalation provisions, and any other information which the department deems necessary and appropriate.

## CHAPTER 61

## DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Sec. 1800. Department; commissioner. There shall be a department of housing preservation and development, the head of which shall be the commissioner of housing preservation and development.

Sec. 1801. Officials of the department. The commissioner may appoint not more than five deputy commissioners, one of whom may be a first deputy commissioner, one of whom shall be a deputy commissioner charged with powers and duties that include, but are not limited to, the control or regulation of rentals pursuant to state or local rent control laws, rules or regulations, and one of whom shall be a deputy commissioner charged with the powers and duties that include, but are not limited to, the powers and duties described in subdivision eight of section eighteen hundred two of this chapter. [The commissioner may also appoint such number of other officers of the department and employ such staff as are within the appropriation of the department.]

Sec. 1802. Powers and duties of the commissioner. Except as otherwise specifically provided by law, the commissioner may exercise or delegate any of the following functions, powers and duties which are vested in the department:

1. all functions of the city relating to the rehabilitation, maintenance, alteration and improvement of residential buildings and privately owned housing including, but not limited to, the

making of rehabilitation loans pursuant to article eight ("municipal loans"), article eight-a ("mini-loans") and article fifteen ("participation loans") of the private housing finance law, acting as liaison with the New York city rehabilitation mortgage insurance corporation established pursuant to article fourteen of the private housing finance law ("REMIC") and the New York city housing development corporation established pursuant to article twelve of the private housing finance law (HDC), the execution of emergency repairs to and the sealing, removal and demolition of buildings, structures and privately-owned housing in accordance with applicable provisions of law and the enforcement of those provisions of the multiple dwelling law or any other law, rule or regulation which relate to the maintenance, use, occupancy, safety or sanitary condition of any building or portion thereof which is occupied, arranged or intended to be occupied as a home, residence or dwelling place;

2. such functions and duties as may be prescribed by law with respect to the relocation of tenants of real property and the selection of tenants for publicly owned or publicly aided housing in the city;

3. all functions of the city, and all powers, rights and duties as provided by any federal, state or local law or resolution, relating to slum clearance, slum prevention and urban renewal; neighborhood conservation; prevention and rehabilitation of blighted, substandard, deteriorated or insanitary areas, and publicly-aided and public housing, including the regulation of



rents in housing built with state or local financing, except housing under the jurisdiction of the New York city housing authority;

4. all functions of the city relating to the control or regulation of rentals pursuant to state or local rent control laws, rules or regulations, including liaison with any body, such as, but not limited to the conciliation and appeals board, the real estate industry stabilization association and the rent guidelines board, in which any rent regulation functions or powers are vested;

5. the functions, rights, powers and duties and the offices granted to, vested in or delegated to the housing and redevelopment board, the housing and development administration or the administrator of the housing and development administration;

6. such powers, rights and duties vested in or exercised by the New York city housing authority as may be transferred to or vested in the city;

7. the functions, powers and duties to:

(a) establish and administer programs including, but not limited to, the municipal loan program, "mini" loan program and participation loan program, designed to encourage the rehabilitation and preservation of existing housing;

(b) administer laws authorizing tax exemption or tax abatement, or both, including, but not limited to, section [J51-2.5] 11-243 of the administrative code of the city of New York and section

four hundred twenty-one of the real property tax law, which are in aid of the construction, rehabilitation, alteration or improvement of residential buildings and structures and the elimination of substandard conditions therein, process applications for such exemption or abatement or both, and coordinate the activities of officers and agencies of the city relating thereto;

(c) manage and superintend all real property acquired by the city for, or devoted to, housing or urban renewal purposes;

(d) represent the city in carrying out the provisions of the private housing finance law including, but not limited to, article two (relating to limited-profit housing companies), article five (relating to redevelopment companies), article eight (relating to municipal loans), article eight-a (relating to mini" loans), article eleven (relating to housing development fund companies) and article fifteen (relating to participation loans), and act as and exercise the powers, rights and duties vested in the "supervising agency" pursuant to the private housing finance law;

(e) represent the city in carrying out the provisions of article fifteen of the general municipal law ("urban renewal law") including, but not limited to, acquiring, leasing or disposing of real property pursuant to said law and establishing the disposition price of real property in an urban renewal area;

(f) undertake projects and exercise the rights, powers and privileges authorized by sections fifty-five and fifty-five-a of the public housing law;

(g) impose and collect charges and fees for the financing,

regulation, supervision and audit of municipality-aided projects and loan programs administered by the commissioner, which charges and fees shall be set aside in a special account for administrative expenses of the department;

(h) act as the coordinating agency with respect to the activities of officers and agencies of the city concerning areas designated by the planning commission or any analogous officer or body, as districts for development or improvement of neighborhoods;

[(i) promulgate and enforce rules and regulations to carry out the functions, powers and duties of the commissioner and the department;

(j) analyze the needs of the city with respect to the matters subject to the jurisdiction of the department, prepare intermediate and long range programs designed to meet such needs, and establish priorities among them;

(k) prepare and transmit the budget estimates of the department as prescribed by law;

(l) supervise the execution and management of all programs, activities and expenditures of the department;

(m) to the extent to which the organization of the department is not prescribed by law, and in accordance with such standards and policies as may be established by the mayor, organize the department into divisions, bureaus, boards or offices and make assignments of powers and duties among them and from time to time change such organization or assignments;]

[(n)] (i) acquire real property, pursuant to the federal housing and community development act of nineteen hundred seventy-four, on behalf of other city agencies.[]; and

(o) perform such other functions, powers and duties as are vested in or assigned to the commissioner or the department by law or by the mayor.]

8. On and after September first, nineteen hundred seventy-eight.

(a) the powers and duties imposed by law upon the board of estimate relating to the sale, lease, exchange or other disposition of residential real property of the city, provided that any disposition by public auction shall be conducted by the department of general services;

(b) management and superintendence of all residential real property of the city not used for public purposes, including real property acquired for a public purpose and not being currently utilized for such purpose, but not management and superintendence of wharf property, real property under the jurisdiction of the New York city transit authority, real property under the jurisdiction of the New York city housing authority by virtue of an authorization granted by the mayor pursuant to the provisions of subdivision three of section one hundred twenty-five of the public housing law, or real property under the jurisdiction of the triborough bridge and tunnel authority;

(c) such other powers and duties as may be prescribed by law in relation to the management, demolition or sealing or other



treatment of residential real property of the city; and

(d) employment of professional community and other personnel to manage residential real property of the city.

Sec. 1803. Inspectors, inspection. 1. Housing maintenance inspectors shall have such qualifications as shall be prescribed by the department of personnel after consultation with the commissioner.

2. The commissioner or any inspector or any officer of the department authorized in writing by the commissioner or the commissioner's delegate may, in accordance with law, for the purpose of performing their respective official duties, enter and inspect any building, structure, enclosure, premises or any part thereof, or anything therein or attached thereto, and any refusal to permit such entry or inspection shall be a misdemeanor triable in the criminal court and punishable upon conviction by not more than thirty days imprisonment, or by a fine of not more than one hundred dollars or both.

Sec. 1804. Organization of the department; notice. In January, nineteen hundred seventy-eight and every six months thereafter, in accordance with the procedures of [section eleven hundred five, subdivisions] subdivision (b) [and (c)] of section one thousand forty-three of this charter, the commissioner shall cause to be published in the City Record and shall give notice of a written plan or chart describing the organization of the department.

## CHAPTER 64

## DEPARTMENT OF CONSUMER AFFAIRS

Sec. 2201. Department; commissioner. There shall be a department of consumer affairs, the head of which shall be the commissioner of consumer affairs.

Sec. 2202. Deputies. The commissioner may appoint two deputies.

Sec. 2203. Powers of the commissioner. (a) The commissioner shall plan, make recommendations, conduct research and develop programs for consumer education and protection, facilitate the exchange and dissemination of information in consultation with agencies, federal and state officials, commercial interests, private groups and others working in this field and coordinate the consumer protection activities of other city agencies.

(b) The commissioner shall enforce all laws in relation to weights and measures;

(c) The commissioner shall have cognizance and control of the granting, issuing, transferring, renewing, revoking, suspending and cancelling of all licenses and permits, except in the cases with respect to which and to the extent to which any of said powers are conferred on other persons or agency by laws, and shall collect all fees for licenses and permits the collection of which by some other person or agency is not authorized by law;

(d) The commissioner shall enforce all laws relating to the

advertising and offering for sale and the sale of all commodities, goods, wares and services; in addition he shall receive and evaluate complaints and initiate his own investigations relating to these matters and take appropriate action, including referral to a federal or state agency.

(e) The commissioner, in the performance of said functions, shall be authorized to hold public and private hearings, administer oaths, take testimony, serve subpoenas, receive evidence, and to receive, administer, pay over and distribute monies collected in and as a result of actions brought for violations of laws relating to deceptive or unconscionable trade practices, or of related laws, and to promulgate, amend and modify rules and regulations necessary to carry out the powers and duties of the department.

(f) The commissioner shall exercise the powers of a commissioner of public markets under the agriculture and markets law with respect to open air markets.

Sec. 2204. Consumers council. There shall be in the department a consumers council which shall advise the commissioner on general goals for the development of programs, undertake studies and reports, and foster cooperation among city, state and federal agencies and private groups. The council shall consist of the commissioner, ex officio, and twelve members to be appointed by the mayor to serve for three years except that of the twelve members first appointed, four shall be appointed for a term of three years, four for a term of two years and four for a term

of one year. One of these twelve shall be appointed chairman annually by the mayor. The members shall represent a cross section of consumer interests. They shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties.



## CHAPTER 65

## NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Sec. 2300. Commission. There shall be a New York city taxi and limousine commission, the purposes of which shall be the continuance, further development and improvement of taxi and limousine service in the city of New York. It shall be the further purpose of the commission, consonant with the promotion and protection of the public comfort and convenience to adopt and establish an overall public transportation policy governing taxi, coach, limousine and wheelchair accessible van services as it relates to the overall public transportation network of the city; to establish certain rates, standards of service, standards of insurance and minimum coverage; standards for driver safety; standards for equipment safety and design; standards for noise and air pollution control; and to set standards and criteria for the licensing of vehicles, drivers and chauffeurs, owners and operators engaged in such services; all as more particularly set forth herein.

Sec. 2301. Membership of commission. a. The commission shall consist of nine members to be appointed by the mayor with the advice and consent of the city council; five of said members, one resident from each of the five boroughs of New York city, shall be recommended for appointment by a majority vote of the councilmen of the respective borough.

b. Such members shall be appointed for terms of seven years.

The members shall first be appointed to serve as follows:

1. Five members recommended by the city council for a term of two years.

2. Two members for a term of four years.

3. Two members for a term of six years. Each such other member shall serve until the appointment and qualification of a successor. For the purpose of fixing the expiration of terms, they shall be deemed to have commenced on the first day of February in the year of appointment and qualification, irrespective of the actual date of appointment and qualification. Vacancies other than by expiration of a term shall be filled for the unexpired term. The mayor may remove any such member for cause, upon stated charges. Notwithstanding the provisions of this paragraph, any public officer appointed to the commission shall serve only during the period that he holds such public office and shall receive no additional compensation.

c. The mayor shall designate one member of the commission to act as the chairman and chief executive officer. The chairman shall have charge of the organization of its office and have authority to employ, assign and superintend the duties of such officers and employees as may be necessary to carry out the provisions of this chapter. The chairman shall devote his full time to this position and as such he shall receive compensation.

d. The other members of the commission shall not be entitled to compensation.

e. A majority of the whole number of members of the commission

then in office shall constitute a quorum for the transaction of any business. The commission shall have power to act by a majority of its members

Sec. 2302. Reports of commission. All proceedings of the commission and all documents and records in its possession shall be public records and the commission shall make an annual report to the city council on or before the second Monday of January in each year. The chairman of the city council committee on consumer affairs may at any time direct the commission or the chairman of the commission to appear before the committee to give testimony pertaining thereto, and to furnish to the members of the council any reports deemed necessary.

Sec. 2303. Jurisdiction, powers and duties of commission. a. The jurisdiction, powers and duties of the commission shall include the regulation and supervision of the business and industry of transportation of persons by licensed vehicles for hire in the city, pursuant to the provisions of this chapter.

b. Such regulation and supervision shall extend to:

1. The regulation and supervision of rates of fare to be charged and collected.

2. The regulation and supervision of standards and conditions of service.

3. The revocation and suspension of licenses for vehicles, other than licenses issued pursuant to state law, provided, however, that taxicab licenses represented by medallions heretofore issued shall in all respects remain valid in accordance

with their terms and transferable according to law.

4. Taxicab licenses represented by medallions which have heretofore been surrendered are hereby revoked. Additional taxicab licenses may be issued from time to time only upon the enactment of a local law providing therefor. Any nontransferable licenses shall be deemed revoked upon the surrender by or death of the holder thereof.

5. The issuance, revocation, suspension of licenses for drivers, chauffeurs, owners or operators of vehicles, other than licenses issued pursuant to state law, and for taxicab brokers and the establishment of qualifying standards required for such licenses.

6. Requirements of standards of safety, and design, comfort, convenience, noise and air pollution control and efficiency in the operation of vehicles and auxiliary equipment.

7. Requirements for the maintenance of financial responsibility, insurance and minimum coverage.

8. The establishment of, and the requirement of adherence to, uniform system of accounts, with the right of the commission to inspect books and records and to require the submission of such reports as the commission may determine.

9. The development and effectuation of a broad public policy of transportation affected by this chapter as it relates to forms of public transportation in the city, including innovation and experimentation in relation to type and design of equipment, modes of service and manner of operation, which for limited purposes and



limited periods of time may depart from the requirements otherwise established for licensed vehicles pursuant to this chapter.

10. Assistance to the business and industry of public transportation affected by this chapter in aid of the continuation, development and improvement of service and the safety and convenience of the public, including assistance in securing federal and state grants.

11. The formulation, promulgation and effectuation of rules and regulations reasonably designed to carry out the purposes, terms and provisions of this chapter.

c. The commission or an administrative tribunal which may be established by the commission to adjudicate charges of violation of provisions of the administrative code and rules and regulations promulgated thereunder shall have the power to enforce its decisions and orders imposing civil penalties, not to exceed ten thousand dollars for each respondent, for violations relating to unlicensed vehicles for hire and unlicensed drivers of vehicles for hire as if they were money judgments, without court proceedings, in the following manner: Any such decision or order of the commission or administrative tribunal imposing a civil penalty, whether the adjudication was had by hearing or upon default or otherwise, shall constitute a judgment rendered by the commission or administrative tribunal which may be entered in the civil court of the city of New York or any other place provided for the entry of civil judgments within the state. Before a judgment based upon a default may be so entered the commission or

administrative tribunal shall have first notified the respondent by first class mail in such form as the commission may direct: (i) of the default and order and the penalty imposed; (ii) that a judgment will be entered in the civil court of the city of New York or any other place provided by law for the entry of civil judgments within the state of New York; and (iii) that entry of such judgment may be avoided by requesting a stay of default for good cause shown and either requesting a hearing or entering a plea pursuant to the rules of the commission or administrative tribunal pursuant to the rules of the commission or administrative tribunal within thirty days of the mailing of such notice. The commission or tribunal shall not enter any decision or order pursuant to this subdivision unless the notice of violation shall have been served in the same manner as is prescribed for service of process by article three of the civil practice law and rules or article three of the business corporation law except that with respect to any notice of violation which alleges the operation of an unlicensed vehicle for hire the operator of such vehicle who is not the owner thereof but who uses or operates such vehicle with the permission of the owner, express or implied, shall be deemed to be the agent of such owner to receive such notice of violation and service made pursuant to this subdivision on such operator shall also be deemed to be lawful service upon such owner.

Sec. 2304. Rates. a. The amount to be charged and collected for the hire of a taxicab for one or more passengers within the city of New York shall be the total of the following items:

1. For the first one-fifth mile or fraction thereof, or the first one minute of waiting time or fraction thereof, or the combination thereof, sixty cents.

2. For each additional one fifth mile or fraction thereof, or seventy-two seconds of waiting time or fraction thereof, or the combination thereof, ten cents.

3. Fifty cents for each trunk.

4. All bridge and tunnel and ferry tolls.

5. There shall be no charge for personal luggage or for other belongings of the passengers transported in the interior of the taxicab.

b. Hereafter, and notwithstanding the rates set forth in paragraph a of this section, the commission shall prescribe, revise and otherwise regulate reasonable rates of fare which may be charged and collected for each type of service rendered.

c. In determining the rates of fare, the commission may consider all facts which in its judgment have a bearing on a proper determination, with due regard among other things to the time and distance of travel, to the character of the service provided, to the gross revenues derived from operation, to the net return derived from operation, to the expenses of operation including the income of drivers or operators, to the return upon capital actually expended and the necessity of making reservations out of income for surplus and contingencies, to the number of passengers transported, to the effect of fares upon the public and in relation to the fares for other forms of public transportation,

and to the fares and practices with respect to similar services in other cities of the United States.

d. No determination by the commission changing the rates of fare shall be made except after a public hearing before the commission, at which evidence shall be taken.

e. At any public hearing involving a change in the rates of fare, the burden of proof to show that existing rates are not reasonable shall be upon such segment of the business or industry affected by this chapter as is involved in the change in rates.

f. The costs reasonably attributable to a public hearing involving a change in the rates of fare, including the expenses of the commission and the compensation of its officers, agents and employees, shall be charged to and paid by such segment of the business or industry affected by this chapter as is involved in the change in rates.



CHAPTER 66  
DEPARTMENT FOR THE AGING

Sec. 2400. Department; commissioner. There shall be a department for the aging, the head of which shall be the commissioner for the aging.

Sec. 2401. Deputies. The commissioner may appoint and at pleasure remove a deputy commissioner.

Sec. 2402. Powers and duties. The department shall have the following powers and duties:

[a. to advise and assist the mayor in developing policies designed to meet the needs of the aging;

b. to coordinate city programs and activities relating to the aging with each other and with those sponsored by responsible organizations in the private sector;]

[c.] a. to stimulate community interest in the problems of the aging;

[d.] b. to promote public awareness of resources available for the aging, and to refer the public to appropriate departments and agencies of the city, state and federal governments for advice, assistance and available services in connection with particular problems;

[e.] c. to cooperate with and assist local neighborhoods in the development of programs and the establishment of local offices;

[f. to make such studies and reports regarding needs of the

aging as the commissioner may deem appropriate or as may be requested by the mayor;]

[g.] d. to serve as a clearing house for information relating to the needs of the aging;

[h. to enter into contracts with individuals, organizations and institutions;]

[i.] e. to disburse available city, state and federal funds to programs throughout the city and, when practical, coordinate such funds with available funding from the private sector;

[j.] f. to promulgate rules and regulations for the operation of facilities, services and programs under its jurisdiction; and

[k.] g. to maintain, operate and control such programs and facilities as may be necessary or required for the proper administration of the department.

Sec. 2403. Advisory council. a. There shall be in the department an advisory council consisting of thirty-one members at least sixteen of whom shall be recipients of services rendered to the elderly. These members shall include representatives from the areas of social service, health care, the academic community and local neighborhoods.

b. It shall be the duty of the council to advise the commissioner and make recommendations. The council shall submit an annual report of its activities to the mayor.

c. The members of the council shall be appointed by the mayor. Ten of said members, two residents from each of the five boroughs of the city, shall be recommended for appointment by a

majority vote of the city council members of the respective boroughs.

d. The terms of office of the thirty-one members of the council first appointed shall be as follows: eleven appointees, five of whom shall be recommended for appointment by the city council members of the respective boroughs, one from each borough, shall serve for a term ending the thirty-first day of March, nineteen hundred eighty-one; ten appointees shall serve for a term ending the thirty-first day of March, nineteen hundred eighty-two; and ten appointees, five of whom shall be recommended for appointment by the city council members of the respective boroughs, one from each borough, shall serve for a term ending the thirty-first day of March, nineteen hundred eighty-three. Upon the expiration of such terms, the terms of office of their successors shall be three years. Vacancies occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as regular appointments.

e. The mayor shall designate one of the members of the council to be chairman and one to be vice-chairman.

f. The members of the council shall serve without compensation.

## CHAPTER 67

## DEPARTMENT OF CULTURAL AFFAIRS

Sec. 2501. Department; commissioner. There shall be a department of cultural affairs, the head of which shall be the commissioner of cultural affairs.

Sec. 2502. Deputies. The commissioner may appoint a deputy.

Sec. 2503. Powers and duties of commissioner. Except as otherwise provided by law, the commissioner shall have the power and duty:

(a) to plan, acquire, design, construct, improve and manage facilities for the conduct of cultural activities by the city and, to the extent possible, to use the resources of other agencies to perform design and planning functions subject to the approval of such agencies;

(b) to plan, develop, conduct and supervise such cultural activities; and

(c) to foster coordination among city, state and federal agencies, other organizations and institutions with respect to cultural activities in the city.

Sec. 2504. Budget estimates of cultural institutions. The capital and expense budget estimates, to the extent involving expenditures to be paid from the city treasury, of all institutions or other organizations engaging in cultural activities in the city, shall be submitted to the commissioner,



who shall submit such expense budget estimates to the director of management and budget and such capital budget estimates to the mayor, the board of estimate, the council, and the city planning commission in accordance with law, together with the commissioner's recommendations.

Sec. 2505. Cultural affairs advisory commission. 1. There shall be in the department a cultural affairs advisory commission consisting of not fewer than fifteen nor more than twenty-one members, exclusive of a deputy mayor, the commissioner of cultural affairs, and the commissioner of parks and recreation, who shall serve as ex-officio members. The members of the advisory commission shall serve without compensation.

2. a. Members other than ex-officio members shall be appointed by the mayor for a term of three years and provided that of those members first taking office one-third shall serve for one year, one-third shall serve for two years and the remainder shall serve for three years. Notwithstanding the date of appointment, the terms of members first taking office shall be deemed to commence on the effective date of this chapter.

b. The mayor shall designate one of the members of the commission to be chairman and one to be vice-chairman.

3. The commission shall advise the commissioner and the mayor with respect to cultural activities in the city and in furtherance of this function shall:

a. formulate and recommend goals with regard to cultural activities and policy;

b. foster coordination among city, state and federal agencies and other organizations and institutions with respect to cultural activities;

c. compile data and reports and submit its findings to the commissioner and the mayor; and

d. perform such other related functions and duties which may, from time to time, be deemed appropriate by the mayor.

4. All city agencies are directed to cooperate with the commission, consistent with the law, in order to coordinate and promote cultural activities in this city.

## [CHAPTER 68

## ETHICS

Sec. 2600. Board of ethics. a. There shall be a board of ethics consisting of the corporation counsel, the director of personnel, and three public members appointed by the mayor, each for a term of four years, who shall serve without compensation. The mayor shall designate a chairman from among the public members.

b. The board of ethics may appoint a counsel to serve at its pleasure and may employ or retain other officers, employees and consultants within appropriations for such purpose.

Sec. 2601. Investigations. Upon request from the board of ethics, the commissioner of investigation shall investigate any matter within the jurisdiction of the board and report to it the result of such investigation.

Sec. 2602. Advisory opinions. a. The board of ethics shall render advisory opinions with respect to questions of ethical conduct, conflicts of interest and other matters arising under sections twenty-six hundred four, twenty-six hundred five, twenty-six hundred six and twenty-six hundred seven. Such advisory opinions shall be rendered on the written request of the officer or employee, former officer or employee concerned or any supervisory official of such officer or employee and in the board's discretion may be rendered on its own initiative or on the basis of an investigation.

b. The board of ethics shall make public its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of any officer or employee or other involved party. The records, reports, memoranda and files of the board shall be confidential and shall not be subject to public scrutiny.

Sec. 2603. Revision. The board of ethics shall review the provisions of this chapter and shall recommend to the council from time to time changes or additions that may be appropriate or desirable. Such review and recommendation shall be made at least once every five years.

Sec. 2604. Conflicts of interest. a. A council member who has a direct or indirect financial or other private interest in any proposed legislation shall publicly disclose, on the official records of the council, the nature and extent of such interest.

b. No member of the board of estimate or the council or other salaried officer or employee of the city or any city agency:

(1) shall be or become interested directly or indirectly in any manner whatsoever except by operation of law in any business dealings with the city or any city agency;

(2) shall act as attorney, agent, broker, director, officer, employee or consultant for any person, firm, corporation or other entity interested directly or indirectly in any manner whatsoever in any such business dealings;

(3) shall accept any valuable gift, whether in the form of service, loan, thing or promise, or in any other form from any person, firm, corporation or other entity which to his knowledge



is interested directly or indirectly in any manner whatsoever in any such business dealings;

(4) shall represent private interests before any city agency;

(5) shall appear as attorney or counsel against the interests of the city or any city agency in any litigation to which the city or any city agency is a party, or in any action or proceeding in which the city or any city agency, or any officer or employee of the city or any city agency, acting in the course of his official duties, is a complainant; or

(6) shall give opinion evidence as a paid expert against the interests of the city or any city agency in any civil litigation brought for private pecuniary gain against the city or any city agency.

(7) This subdivision shall not be construed to prohibit an officer or employee of the city or of any city agency, other than elected officials, employees in the office of property management of the department of housing preservation and development, employees in the division of real property of the department of general services and the commissioners, deputy commissioners, assistant commissioners and others of equivalent ranks in such departments, or the successors to such departments, from bidding on and purchasing any city-owned real property at public auction or sealed bid sale or from purchasing any city-owned residential building containing six or less dwelling units through negotiated sale, provided that such officer or employee, in the course of city employment, did not participate in decisions or matters

affecting the disposition of the city property to be purchased and has no such matters under active consideration.

c. No member of the board of estimate or the council or other officer or employee of the city or any city agency, whether paid or unpaid:

(1) shall engage in any business or transaction or private employment, or shall have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his official duties;

(2) shall use or attempt to use his position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for himself or any person, firm, corporation or other entity with which he is associated; he shall be deemed 'associated' with each person who is a close relative by blood or marriage, with each person with whom he has a business or other financial relationship and with each firm, corporation or other entity in which he has a present or potential substantial interest, direct or indirect;

(3) shall attempt to influence the course of any proposed legislation in the board of estimate or the council without publicly disclosing on the official records of the board of estimate or the council, as the case may be, the nature and extent of any direct or indirect financial or other private interest he may have in such legislation;

(4) shall coerce or attempt to coerce, by intimidation, threats or otherwise, any officer or employee of the city or of

any city agency to engage in political activities;

(5) shall appear, directly or indirectly, on behalf of private interests in matters involving the city agency in which he serves or before any city agency affecting matters involving the city agency in which he serves;

(6) shall disclose any confidential information concerning any of the property, affairs or government of the city or any city agency, or use any such information to advance any direct or indirect financial or other private interest of himself or any other person, firm, corporation or other entity.

d. As used in this chapter, the words "business dealings with the city" shall include any contract, service, work or business with, any sale, renting or other disposition to, any purchase, leasing or other acquisition from, and any grant, license, permit or other privilege from, the city or any city agency, and any performance of or litigation with respect to any of the foregoing.

e. As used in this chapter, the term "agency" shall mean a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include the board of education, the board of higher education, school boards, city and community colleges, community boards, the New York city transit authority, the New York city housing authority, and the triborough bridge and tunnel authority, but shall not include any court or any corporation or institution

maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

f. This section shall not be construed:

(1) to prohibit a council member from appearing without compensation before any city agency on behalf of constituents or in the performance of public official or civic obligations;

(2) to prohibit a member of the board of estimate or the council or other officer or employee from:

(a) accepting or receiving any benefit or facility which is provided for or made available to citizens or residents or classes of citizens or residents under housing or other general welfare legislation or in the exercise of the police power;

(b) acquiring or holding an insubstantial investment or other insubstantial interest in any firm, corporation or other entity or business or private transaction, provided such investment or interest does not create a conflict with his official duties;

(c) being affiliated with, by investment or otherwise, employed by or representing a person, firm, corporation or other entity whose business dealings with the city or any city agency form an insubstantial and unimportant part of its total business, provided that he has no direct or indirect interest in such business dealings and takes no direct or indirect part in such business dealings and receives no direct or indirect compensation or other benefit in connection therewith;

(3) to prohibit any physician, dentist, optometrist,



podiatrist, pharmacist, chiropractor or other person who is eligible to provide services or supplies under title eleven of article five of the social services law and is receiving any salary or other compensation from the city treasury, from providing professional services and supplies to persons who are entitled to benefits under such title, provided that, in the case of services or supplies provided by those who perform audit, review or other administrative functions pursuant to the provisions of such title, the New York state department of health reviews and approves payment for such services or supplies and provided further that there is no conflict with their official duties; nothing in this paragraph shall be construed to authorize payment to such persons under such title for services or supplies furnished in the course of their employment by the city.

(4) to prohibit any member of the uniformed force of the police department from being employed in the private security field provided that such member has received approval from the police commissioner therefor and has complied with all rules and regulations promulgated by the police commissioner relating to such employment.

(5) to prohibit an officer or employee, other than an elected official, from acting as attorney, agent, broker, employee, officer, director or consultant for any not-for-profit corporation or association or other such entity which operates on a not-for-profit basis, interested in business dealings with the city or a city agency, provided that:

(a) such officer or employee takes no direct or indirect part in such business dealings;

(b) such not-for-profit entity has no direct or indirect interest in any business dealings with the city agency in which the officer or employee is employed and is not subject to supervision, control or regulation by such agency;

(c) all such activities by such officer or employee shall be performed at times during which the officer or employee is not required to perform services for the city;

(d) such officer or employee receives no salary or other compensation in connection with such activities, and

(e) the head of the city agency which employs the officer or employee, the commissioner of investigation, and the board of ethics have determined that the proposed activity is in furtherance of the purposes and interests of the city and would not constitute a conflict of interest.

g. No member of the board of estimate or the council or other officer or employee of the city or any city agency, whether paid or unpaid, shall solicit, negotiate for or accept any employment from which, after leaving city service, he would be disqualified under subdivision h of this section.

h. No person who has served as a member of the board of estimate or the council or other officer or employee of the city or any city agency, whether paid or unpaid, shall, within a period of three years after termination of his employment, appear before any city agency, or receive compensation for any services rendered

on behalf of any person, firm, corporation or other private entity, in relation to any case, proceeding, application or other matter with respect to which during his employment he was directly concerned, or in which he personally participated, or which was under his active consideration, or with respect to which knowledge or information was made available to him as a result of his city employment, provided, however, that:

(1) such a person shall be barred for eight years from any action in relation to any such case, proceeding, application or other matter on behalf of a private person, firm, corporation or other private entity which would be adverse to or against the interests of the city or any city agency;

(2) such a person may engage in private employment or action from which he would otherwise be prohibited by the aforesaid provisions of this subdivision where the employment or action would be in furtherance of the purposes and interests of the city and the city agency in question and not in conflict therewith, if, after written approval as satisfying this requirement by the head of such city agency, the corporation counsel and the commissioner of investigation, the board of ethics shall find that the employment or action involves no such conflict.

i. No member of the board of estimate, member of the city council, officer or employee of the city or one of its departments or agencies employed on a full-time basis by virtue of appointment of the mayor, and no officer or employee of the city or one of its departments or agencies employed in a policy-making position as

on behalf of any person, firm, corporation or other private entity, in relation to any case, proceeding, application or other matter with respect to which during his employment he was directly concerned, or in which he personally participated, or which was under his active consideration, or with respect to which knowledge or information was made available to him as a result of his city employment, provided, however, that:

(1) such a person shall be barred for eight years from any action in relation to any such case, proceeding, application or other matter on behalf of a private person, firm, corporation or other private entity which would be adverse to or against the interests of the city or any city agency;

(2) such a person may engage in private employment or action from which he would otherwise be prohibited by the aforesaid provisions of this subdivision where the employment or action would be in furtherance of the purposes and interests of the city and the city agency in question and not in conflict therewith, if, after written approval as satisfying this requirement by the head of such city agency, the corporation counsel and the commissioner of investigation, the board of ethics shall find that the employment or action involves no such conflict.

i. No member of the board of estimate, member of the city council, officer or employee of the city or one of its departments or agencies employed on a full-time basis by virtue of appointment of the mayor, and no officer or employee of the city or one of its departments or agencies employed in a



policy-making position as determined by the appointing authority, shall solicit, negotiate for or accept any employment or agree to contract to render services, without regard to when such employment or contract shall commence, with or to any private person, firm, corporation or other entity who or which is involved in a matter with the city, while such member, officer or employee is actively considering, or is directly concerned or personally participating in such matter on behalf of the city.

j. Any violation of any of the provisions of this section shall, at the option of the comptroller, render forfeit and void the contract, work, business, sale or transaction in question.

k. Any violation of any of the provisions of this section shall constitute cause for fine, suspension or removal from office or employment.

l. Any person who shall knowingly and intentionally violate any of the provisions of this section, shall be guilty of a misdemeanor and shall, on conviction thereof, forfeit his office and be punished for a misdemeanor.

Sec. 2605. Corrupt practices. No member of the board of estimate or the council or other officer or employee of the city or of any city agency shall give or promise to give any portion of his compensation or any money or valuable thing to any person in consideration of his having been or being nominated, appointed, elected or employed as such officer or employee, under the penalty of forfeiting his office or employment and being forever disqualified from being elected, appointed or employed in

the service of the city or of any city agency, and shall on conviction be punished for a misdemeanor.

Sec. 2606. Political contributions. No council member or other officer or employee of the city shall, directly or indirectly, pay or promise to or compel, request or induce any person to pay any political assessment, subscription or contribution under threat of prejudice to or promise of or to secure advantage in rank, compensation or other job related status or function or in consideration of his having been or being nominated, elected, appointed or employed as such officer or employee, under the penalty of forfeiting his office or employment. Any violation of this section shall be a misdemeanor.

Sec. 2607. False reports; compensation; gratuities. Any officer or employee of the city or of any city agency who shall knowingly make a false or deceptive report or statement in the course of his duty or shall, except as in this charter otherwise provided receive compensation except from the city or a city agency for performing any official duty or shall accept or receive any gratuity from any person whose interests may be affected by his official action, shall be guilty of a misdemeanor and upon conviction, forfeit his office or employment.

Sec. 2608. Self-dealing among members of the governing boards of charitable institutions. a. Any charitable institution which receives any payment from the New York city charitable institutions budget shall pass and implement by-laws which will:

1. Require disclosure to the agency responsible for the administration of Charitable Institutions Budget and his approval of the material terms of any contract or transaction, direct or indirect, between an institution and any member of its governing board, any partnership of which he is a member or any corporation in which he holds ten percentum (10%) or more of the outstanding common stock.

2. Preclude any member of the governing board of any institution from sharing, participating or benefiting, directly or indirectly, in the proceeds from any contract or transaction entered into between the institution and any third party unless such participation or benefit has been approved in advance by the agency and the governing board of the institution has approved the transactions by a two-thirds majority excluding the vote of member to be benefited.

3. Require each member of its governing board to submit to the agency each year a disclosure statement including his name, home address, principal occupation and business interests from which he or his spouse received income equal to or greater than 10 per cent of their aggregate gross income during the previous year.

b. At the discretion of the agency, any payment or any portion of any payment may be withheld from any institution which has failed to pass and implement such by-laws. ]

CHAPTER 68  
CONFLICTS OF INTEREST

Sec. 2600. Preamble. Public service is a public trust. These prohibitions on the conduct of public servants are enacted to preserve the trust placed in the public servants of the city, to promote public confidence in government, to protect the integrity of government decision-making and to enhance government efficiency.

Sec. 2601. Definitions. As used in this chapter,

1. "Advisory committee" means a committee, council, board or similar entity constituted to provide advice or recommendations to the city and having no authority to take a final action on behalf of the city or take any action which would have the effect of conditioning, limiting or requiring any final action by any other agency, or to take any action which is authorized by law.

2. "Agency" means a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, advisory committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to, the council, the offices of each elected official, the board of education, community school boards, community boards, the financial services corporation, the health and hospitals corporation, the public development corporation, and the New York city housing authority, but shall not include any



court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

3. "Agency served by a public servant" means (a) in the case of a paid public servant, the agency employing such public servant or (b) in the case of an unpaid public servant, the agency employing the official who has appointed such unpaid public servant unless the body to which the unpaid public servant has been appointed does not report to, or is not under the control of, the official or the agency of the official that has appointed the unpaid public servant, in which case the agency served by the unpaid public servant is the body to which the unpaid public servant has been appointed.

4. "Appear" means to make any communication, for compensation, other than those involving ministerial matters.

5. A person or firm "associated" with a public servant includes a spouse, child, parent or sibling; a person with whom the public servant has a business or other financial relationship; and each firm in which the public servant has a present or potential interest.

6. "Blind trust" means a trust in which a public servant, or the public servant's spouse or unemancipated child, has a beneficial interest, the holdings and sources of income of which the public servant, the public servant's spouse and unemancipated child have no knowledge, and which meets requirements established by rules of the board, which shall include provisions regarding

the independent authority and discretion of the trustee, and the trustee's confidential treatment of information regarding the holdings and sources of income of the trust.

7. "Board" means the conflicts of interest board established by this chapter.

8. "Business dealings with the city" means any transaction with the city involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing, but shall not include any transaction involving a public servant's residence or any ministerial matter.

9. "City" means the city of New York and includes an agency of the city.

10. "Elected official" means a person holding office as mayor, comptroller, president of the council, borough president or member of the council.

11. "Firm" means sole proprietorship, joint venture, partnership, corporation and any other form of enterprise, but shall not include a public benefit corporation, local development corporation or other similar entity as defined by rule of the board.

12. "Interest" means an ownership interest in a firm or a position with a firm.

13. "Law" means state and local law, this charter, and rules issued pursuant thereto.

14. "Member" means a member of the board.

15. "Ministerial matter" means an administrative act, including the issuance of a license, permit or other permission by the city, which is carried out in a prescribed manner and which does not involve substantial personal discretion.

16. "Ownership interest" means an interest in a firm held by a public servant, or the public servant's spouse or unemancipated child, which exceeds five percent of the firm or an investment of twenty-five thousand dollars in cash or other form of commitment, whichever is less, or five percent or twenty-five thousand dollars of the firm's indebtedness, whichever is less, and any lesser interest in a firm when the public servant, or the public servant's spouse or unemancipated child exercises managerial control or responsibility regarding any such firm, but shall not include interests held in any pension plan, deferred compensation plan or mutual fund, the investments of which are not controlled by the public servant, the public servant's spouse or unemancipated child, or in any blind trust which holds or acquires an ownership interest. The amount of twenty-five thousand dollars specified herein shall be modified by the board pursuant to subdivision a of section twenty-six hundred three.

17. "Particular matter" means any case, proceeding, application, request for a ruling or benefit, determination, contract limited to the duration of the contract as specified therein, investigation, charge, accusation, arrest, or other similar action which involves a specific party or parties, including actions leading up to the particular matter; provided that a particular matter shall not be construed to include the

proposal, consideration, or enactment of local laws or resolutions by the council, or any action on the budget or text of the zoning resolution.

18. "Position" means a position in a firm, such as an officer, director, trustee, employee, or any management position, or as an attorney, agent, broker, or consultant to the firm, which does not constitute an ownership interest in the firm.

19. "Public servant" means all officials, officers and employees of the city, including members of community boards and members of advisory committees, except unpaid members of advisory committees shall not be public servants.

20. "Regular employee" means all elected officials and public servants whose primary employment, as defined by rule of the board, is with the city, but shall not include members of advisory committees or community boards.

21. "Spouse" means a husband or wife of a public servant who is not legally separated from such public servant.

22. "Supervisory official" means any person having the authority to control or direct the work of a public servant.

23. "Unemancipated child" means any son, daughter, step-son or step-daughter who is under the age of eighteen, unmarried and living in the household of the public servant.

Sec. 2602. Conflicts of interest board. a. There shall be a conflicts of interest board consisting of three members, appointed by the mayor with the advice and consent of the council. The mayor shall designate a chair.

b. Members shall be chosen for their independence,



integrity, civic commitment and high ethical standards. No person while a member shall hold any public office, seek election to any public office, be a public employee in any jurisdiction, hold any political party office, or appear as a lobbyist before the city.

c. Each member shall serve for a term of six years; provided, however, that of the members first appointed, one shall be appointed for a term to expire on March thirty-first, nineteen hundred ninety, one shall be appointed for a term to expire on March thirty-first, nineteen hundred ninety-two and one shall be appointed for a term to expire on March thirty-first, nineteen hundred ninety-four. If the mayor has not submitted to the council a nomination for appointment of a successor at least sixty days prior to the expiration of the term of the member whose term is expiring, the term of the member in office shall be extended for an additional year and the term of the successor to such member shall be shortened by an equal amount of time. If the council fails to act within forty-five days of receipt of such nomination from the mayor, the nomination shall be deemed to be confirmed. No member shall serve for more than two consecutive six-year terms. All initial nominations by the mayor shall be made by the first day of February, nineteen hundred eighty-nine.

d. Members shall receive a per diem compensation, no less than the highest amount paid to an official appointed to a board or commission with the advice and consent of the council and compensated on a per diem basis, for each calendar day when performing the work of the board.

e. Members of the board shall serve until their successors have been confirmed. Any vacancy occurring other than by expiration of a term shall be filled by nomination by the mayor made to the council within sixty days of the creation of the vacancy, for the unexpired portion of the term of the member succeeded. If the council fails to act within forty-five days of receipt of such nomination from the mayor, the nomination shall be deemed to be confirmed.

f. Members may be removed by the mayor for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply.

g. The board shall appoint a counsel to serve at its pleasure and shall employ or retain such other officers, employees and consultants as are necessary to exercise its powers and fulfill its obligations. The authority of the counsel shall be defined in writing, provided that neither the counsel, nor any other officer, employee or consultant of the board shall be authorized to issue advisory opinions, promulgate rules, issue subpoenas, issue final determinations of violations of this chapter, or make final recommendations of or impose penalties. The board may delegate its authority to issue advisory opinions to the chair.

h. The board shall meet at least once a month and at such other times as the chair may deem necessary. Two members of the board shall constitute a quorum and all acts of the board shall be by the affirmative vote of at least two members of the board.

Sec. 2603. Powers and obligations. a. Rules. The board shall promulgate rules as are necessary to implement and interpret the provisions of this chapter, consistent with the goal of providing clear guidance regarding prohibited conduct. The board, by rule, shall once every four years adjust the dollar amount established in subdivision sixteen of section twenty-six hundred one of this chapter to reflect changes in the consumer price index for the metropolitan New York-New Jersey region published by the United States bureau of labor statistics.

b. Training and education. 1. The board shall have the responsibility of informing public servants and assisting their understanding of the conflicts of interest provisions of this chapter. In fulfilling this responsibility, the board shall develop educational materials regarding the conflicts of interest provisions and related interpretive rules and shall develop and administer an on-going program for the education of public servants regarding the provisions of this chapter.

2. The board shall provide training to all individuals who become public servants to inform them of the provisions of this chapter, shall assist agencies in conducting ongoing training programs, and shall make information concerning this chapter available and known to all public servants. On or before the tenth day after an individual becomes a public servant, such public servant must file a written statement with the board that such public servant has read and shall conform with the provisions of this chapter.

c. Advisory opinions. 1. The board shall render advisory

opinions with respect to all matters covered by this chapter. An advisory opinion shall be rendered on the request of a public servant or a supervisory official of a public servant and shall apply only to such public servant. The request shall be in such form as the board may require and shall be signed by the person making the request. The opinion of the board shall be based on such facts as are presented in the request or subsequently submitted in a written, signed document.

2. Advisory opinions shall be issued only with respect to proposed future conduct or action by a public servant. A public servant whose conduct or action is the subject of an advisory opinion shall not be subject to penalties or sanctions by virtue of acting or failing to act due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion. The board may amend a previously issued advisory opinion after giving reasonable notice to the public servant that it is reconsidering its opinion; provided that such amended advisory opinion shall apply only to future conduct or action of the public servant.

3. The board shall make public its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of any public servant or other involved party. The advisory opinions of the board shall be indexed by subject matter and cross-indexed by charter section and rule number and such index shall be maintained on an annual and cumulative basis.

4. Not later than the first day of September, nineteen hundred eighty-nine, the board shall initiate a rulemaking to



adopt, as interpretive of the provisions of this chapter, any advisory opinions of the board of ethics constituted pursuant to chapter sixty-eight of the charter heretofore in effect, which the board determines to be consistent with and to have interpretive value in construing the provisions of this chapter.

5. For the purposes of this subdivision, public servant includes a prospective and former public servant, and a supervisory official includes a supervisory official who shall supervise a prospective public servant and a supervisory official who supervised a former public servant.

d. Financial disclosure. 1. All financial disclosure statements required to be completed and filed by public servants pursuant to state or local law shall be filed by such public servants with the board.

2. The board shall cause each statement filed with it to be examined to determine if there has been compliance with the applicable law concerning financial disclosure and to determine if there has been compliance with or violations of the provisions of this chapter.

3. The board shall issue rules concerning the filing of financial disclosure statements for the purpose of ensuring compliance by the city and all public servants with the applicable provisions of financial disclosure law.

e. Complaints. 1. The board shall receive complaints alleging violations of this chapter.

2. Whenever a written complaint is received by the board, it shall:

(a) dismiss the complaint if it determines that no further action is required by the board; or

(b) refer the complaint to the commissioner of investigation if further investigation is required for the board to determine what action is appropriate; or

(c) make an initial determination that there is probable cause to believe that a public servant has violated a provision of this chapter; or

(d) refer an alleged violation of this chapter to the head of the agency served by the public servant, if the board deems the violation to be minor or if related disciplinary charges are pending against the public servant.

3. For the purposes of this subdivision, a public servant includes a former public servant.

f. Investigations. 1. The board shall have the power to direct the department of investigation to conduct an investigation of any matter related to the board's responsibilities under this chapter. The commissioner of investigation shall, within a reasonable time, investigate any such matter and submit a confidential written report of factual findings to the board.

2. The commissioner of investigation shall make a confidential report to the board concerning the results of all investigations which involve or may involve violations of the provisions of this chapter, whether or not such investigations were made at the request of the board.

g. Referral of matters within the board's jurisdiction. 1.

A public servant or supervisory official of such public servant may request the board to review and make a determination regarding a past or ongoing action of such public servant. Such request shall be reviewed and acted upon by the board in the same manner as a complaint received by the board under subdivision e of this section.

2. Whenever an agency receives a complaint alleging a violation of this chapter or determines that a violation of this chapter may have occurred, it shall refer such matter to the board. Such referral shall be reviewed and acted upon by the board in the same manner as a complaint received by the board under subdivision e of this section.

3. For the purposes of this subdivision, public servant includes a former public servant, and a supervisory official includes a supervisory official who supervised a former public servant.

h. Hearings. 1. If the board makes an initial determination, based on a complaint, investigation or other information available to the board, that there is probable cause to believe that the public servant has violated a provision of this chapter, the board shall notify the public servant of its determination in writing. The notice shall contain a statement of the facts upon which the board relied for its determination of probable cause and a statement of the provisions of law allegedly violated. The board shall also inform the public servant of the board's procedural rules. Such public servant shall have a reasonable time to respond, either orally or in writing, and

shall have the right to be represented by counsel or any other person.

2. If, after receipt of the public servant's response, the board determines that there is no probable cause to believe that a violation has occurred, the board shall dismiss the matter and inform the public servant in writing of its decision. If, after the consideration of the response by the public servant, the board determines there remains probable cause to believe that a violation of the provisions of this chapter has occurred, the board shall hold or direct a hearing to be held on the record to determine whether such violation has occurred, or shall refer the matter to the appropriate agency if the public servant is subject to the jurisdiction of any state law or collective bargaining agreement which provides for the conduct of disciplinary proceedings, provided that when such a matter is referred to an agency, the agency shall consult with the board before issuing a final decision.

3. If the board determines, after a hearing or the opportunity for a hearing, that a public servant has violated provisions of this chapter, it shall, after consultation with the head of the agency served or formerly served by the public servant, or in the case of an agency head, with the mayor, issue an order either imposing such penalties provided for by this chapter as it deems appropriate, or recommending such penalties to the head of the agency served or formerly served by the public servant, or in the case of an agency head, to the mayor; provided, however, that the board shall not impose penalties



against members of the council, or public servants employed by the council or by members of the council, but may recommend to the council such penalties as it deems appropriate. The order shall include findings of fact and conclusions of law. When a penalty is recommended, the head of the agency or the council shall report to the board what action was taken.

4. Hearings of the board shall not be public unless requested by the public servant. The order and the board's findings and conclusions shall be made public.

5. The board shall maintain an index of all persons found to be in violation of this chapter, by name, office and date of order. The index and the determinations of probable cause and orders in such cases shall be made available for public inspection and copying.

6. Nothing contained in this section shall prohibit the appointing officer of a public servant from terminating or otherwise disciplining such public servant, where such appointing officer is otherwise authorized to do so; provided, however, that such action by the appointing officer shall not preclude the board from exercising its powers and duties under this chapter with respect to the actions of any such public servant.

7. For the purposes of this subdivision, the term public servant shall include a former public servant.

i. Annual report. The board shall submit an annual report to the mayor and the council in accordance with section eleven hundred and six of this charter. The report shall include a

summary of the proceedings and activities of the board, a description of the education and training conducted pursuant to the requirements of this chapter, a statistical summary and evaluation of complaints and referrals received and their disposition, such legislative and administrative recommendations as the board deems appropriate, the rules of the board, and the index of opinions and orders of that year. The report, which shall be made available to the public, shall not contain information, which, if disclosed, would constitute an unwarranted invasion of the privacy of a public servant.

j. Revision. The board shall review the provisions of this chapter and shall recommend to the council from time to time such changes or additions as it may consider appropriate or desirable. Such review and recommendation shall be made at least once every five years.

k. Except as otherwise provided in this chapter, the records, reports, memoranda and files of the board shall be confidential and shall not be subject to public scrutiny.

Sec. 2604. Prohibited interests and conduct. a. Prohibited interests in firms engaged in business dealings with the city.

1. Except as provided in paragraph three below,

(a) no public servant shall have an interest in a firm which such public servant knows is engaged in business dealings with the agency served by such public servant; provided, however, that, subject to paragraph one of subdivision b of this section, an appointed member of a community board shall not be prohibited from having an interest in a firm which may be

affected by an action on a matter before the community or borough board, and

(b) no regular employee shall have an interest in a firm which such regular employee knows is engaged in business dealings with the city, except if such interest is in a firm whose shares are publicly traded, as defined by rule of the board.

2. Prior to acquiring or accepting an interest in a firm whose shares are publicly traded, a public servant may submit a written request to the head of the agency served by the public servant for a determination of whether such firm is engaged in business dealings with such agency. Such determination shall be in writing, shall be rendered expeditiously and shall be binding on the city and the public servant with respect to the prohibition of subparagraph a of paragraph one of this subdivision.

3. An individual who, prior to becoming a public servant, has an ownership interest which would be prohibited by paragraph one above; or a public servant who has an ownership interest and did not know of a business dealing which would cause the interest to be one prohibited by paragraph one above, but has subsequently gained knowledge of such business dealing; or a public servant who holds an ownership interest which, subsequent to the public servant's acquisition of the interest, enters into a business dealing which would cause the ownership interest to be one prohibited by paragraph one above; or a public servant who, by operation of law, obtains an ownership interest which would be

prohibited by paragraph one above shall, prior to becoming a public servant or, if already a public servant, within ten days of knowing of the business dealing, either:

(a) divest the ownership interest; or

(b) disclose to the board such ownership interest and comply with its order.

4. When an individual or public servant discloses an interest to the board pursuant to paragraph three of this subdivision, the board shall issue an order setting forth its determination as to whether or not such interest, if maintained, would be in conflict with the proper discharge of the public servant's official duties. In making such determination, the board shall take into account the nature of the public servant's official duties, the manner in which the interest may be affected by any action of the city, and the appearance of conflict to the public. If the board determines a conflict exists, the board's order shall require divestiture or such other action as it deems appropriate which may mitigate such a conflict, taking into account the financial burden of any decision on the public servant.

5. For the purposes of this subdivision, the agency served by

(a) an elected official, other than a member of the council, shall be the executive branch of the city government,

(b) a public servant who is a deputy mayor, the director of the office of management and budget, personnel



director, commissioner of general services, corporation counsel, commissioner of finance, commissioner of investigation or chair of the city planning commission, or who serves in the executive branch of city government and is charged with substantial policy discretion involving city-wide policy as determined by the board, shall be the executive branch of the city government,

(c) a public servant designated by a member of the board of estimate to act in the place of such member as a member of the board of estimate, shall include the board of estimate, and

(d) a member of the council shall be the legislative branch of the city government.

6. For the purposes of subdivisions a and b of section twenty-six hundred six, a public servant shall be deemed to know of a business dealing with the city if such public servant should have known of such business dealing with the city.

b. Prohibited conduct. 1. A public servant who has an interest in a firm which is not prohibited by subdivision a of this section, shall not take any action as a public servant particularly affecting that interest, except that

(a) in the case of an elected official, such action shall not be prohibited, but the elected official shall disclose the interest to the conflicts of interest board, and on the official records of the council or the board of estimate in the case of matters before those bodies,

(b) in the case of an appointed community board member, such action shall not be prohibited, but no member may

vote on any matter before the community or borough board which may result in a personal and direct economic gain to the member or any person with whom the member is associated, and

(c) in the case of all other public servants, if the interest is less than ten thousand dollars, such action shall not be prohibited, but the public servant shall disclose the interest to the board.

2. No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.

3. No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

4. No public servant shall disclose any confidential information concerning the property, affairs or government of the city which is obtained as a result of the official duties of such public servant and which is not otherwise available to the public, or use any such information to advance any direct or indirect financial or other private interest of the public servant or of any other person or firm associated with the public servant; provided, however, that this shall not prohibit any public servant from disclosing any information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of

interest.

5. No public servant shall accept any valuable gift, as defined by rule of the board, from any person or firm which such public servant knows is or intends to become engaged in business dealings with the city, except that nothing contained herein shall prohibit a public servant from accepting a gift which is customary on family and social occasions.

6. No public servant shall, for compensation, represent private interests before any city agency or appear directly or indirectly on behalf of private interests in matters involving the city. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant.

7. No public servant shall appear as attorney or counsel against the interests of the city in any litigation to which the city is a party, or in any action or proceeding in which the city, or any public servant of the city, acting in the course of official duties, is a complainant, provided that this paragraph shall not apply to a public servant employed by an elected official who appears as attorney or counsel for that elected official in any litigation, action or proceeding in which the elected official has standing and authority to participate by virtue of his or her capacity as an elected official, including any part of a litigation, action or proceeding prior to or at which standing or authority to participate is determined. This paragraph shall not in any way be construed to expand or limit the standing or authority of any elected official to participate

in any litigation, action or proceeding, nor shall it in any way affect the powers and duties of the corporation counsel. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant.

8. No public servant shall give opinion evidence as a paid expert against the interests of the city in any civil litigation brought by or against the city. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant.

9. No public servant shall,

(a) coerce or attempt to coerce, by intimidation, threats or otherwise, any public servant to engage in political activities, or

(b) request any subordinate public servant to participate in a political campaign. For purposes of this subparagraph, participation in a political campaign shall include managing or aiding in the management of a campaign, soliciting votes or canvassing voters for a particular candidate or performing any similar acts which are unrelated to the public servant's duties or responsibilities. Nothing contained herein shall prohibit a public servant from requesting a subordinate public servant to speak on behalf of a candidate, or provide information or perform other similar acts, if such acts are related to matters within the public servant's duties or responsibilities.

10. No public servant shall give or promise to give any portion of the public servant's compensation, or any money,



or valuable thing to any person in consideration of having been or being nominated, appointed, elected or employed as a public servant.

11. No public servant shall, directly or indirectly,

(a) compel, induce or request any person to pay any political assessment, subscription or contribution, under threat of prejudice to or promise of or to secure advantage in rank, compensation or other job-related status or function,

(b) pay or promise to pay any political assessment, subscription or contribution in consideration of having been or being nominated, elected or employed as such public servant or to secure advantage in rank, compensation or other job-related status or function, or

(c) compel, induce or request any subordinate public servant to pay any political assessment, subscription or contribution.

12. No public servant, other than an elected official, who is a deputy mayor, or head of an agency or who is charged with substantial policy discretion as defined by rule of the board, shall directly or indirectly request any person to make or pay any political assessment, subscription or contribution for any candidate for an elective office of the city or for any elected official who is a candidate for any elective office; provided that nothing contained in this paragraph shall be construed to prohibit such public servant from speaking on behalf of any such candidate or elected official at an occasion where a request for a political assessment, subscription or contribution

may be made by others.

13. No public servant shall receive compensation except from the city for performing any official duty or accept or receive any gratuity from any person whose interests may be affected by the public servant's official action.

14. No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant.

c. This section shall not prohibit:

1. an elected official from appearing without compensation before any city agency on behalf of constituents or in the performance of public official or civic obligations;

2. a public servant from accepting or receiving any benefit or facility which is provided for or made available to citizens or residents, or classes of citizens or residents, under housing or other general welfare legislation or in the exercise of the police power;

3. a public servant from obtaining a loan from any financial institution upon terms and conditions available to members of the public;

4. any physician, dentist, optometrist, podiatrist, pharmacist, chiropractor or other person who is eligible to provide services or supplies under title eleven of article five of the social services law and is receiving any salary or other compensation from the city treasury, from providing professional services and supplies to persons who are entitled to benefits under such title, provided that, in the case of services or

supplies provided by those who perform audit, review or other administrative functions pursuant to the provisions of such title, the New York state department of health reviews and approves payment for such services or supplies and provided further that there is no conflict with their official duties; nothing in this paragraph shall be construed to authorize payment to such persons under such title for services or supplies furnished in the course of their employment by the city;

5. any member of the uniformed force of the police department from being employed in the private security field, provided that such member has received approval from the police commissioner therefor and has complied with all rules and regulations promulgated by the police commissioner relating to such employment;

6. a public servant from acting as attorney, agent, broker, employee, officer, director or consultant for any not-for-profit corporation, or association, or other such entity which operates on a not-for-profit basis, interested in business dealings with the city, provided that:

(a) such public servant takes no direct or indirect part in such business dealings;

(b) such not-for-profit entity has no direct or indirect interest in any business dealings with the city agency in which the public servant is employed and is not subject to supervision, control or regulation by such agency, except where it is determined by the head of an agency, or by the mayor where the public servant is an agency head, that such activity is in

furtherance of the purposes and interests of the city;

(c) all such activities by such public servant shall be performed at times during which the public servant is not required to perform services for the city; and

(d) such public servant receives no salary or other compensation in connection with such activities;

7. a public servant, other than elected officials, employees in the office of property management of the department of housing preservation and development, employees in the division of real property of the department of general services and the commissioners, deputy commissioners, assistant commissioners and others of equivalent ranks in such departments, or the successors to such departments, from bidding on and purchasing any city-owned real property at public auction or sealed bid sale, or from purchasing any city-owned residential building containing six or less dwelling units through negotiated sale, provided that such public servant, in the course of city employment, did not participate in decisions or matters affecting the disposition of the city property to be purchased and has no such matters under active consideration; or

8. a public servant from participating in collective bargaining or from paying union or shop fees or dues or, if such public servant is a union member, from requesting a subordinate public servant who is a member of such union to contribute to union political action committees or other similar entities.

d. Post-employment restrictions. 1. No public servant shall solicit, negotiate for or accept any position (i) from



which, after leaving city service, the public servant would be disqualified under this subdivision, or (ii) with any person or firm who or which is involved in a particular matter with the city, while such public servant is actively considering, or is directly concerned or personally participating in such particular matter on behalf of the city.

2. No former public servant shall, within a period of one year after termination of such person's service with the city, appear before the city agency served by such public servant; provided, however, that nothing contained herein shall be deemed to prohibit a former public servant from making communications with the agency served by the public servant which are incidental to an otherwise permitted appearance in an adjudicative proceeding before another agency or body, or a court, unless the proceeding was pending in the agency served during the period of the public servant's service with that agency. For the purposes of this paragraph, the agency served by a public servant designated by a member of the board of estimate to act in the place of such member as a member of the board of estimate, shall include the board of estimate.

3. No elected official, nor the holder of the position of deputy mayor, director of the office of management and budget, personnel director, commissioner of general services, corporation counsel, commissioner of finance, commissioner of investigation or chair of the city planning commission shall, within a period of one year after termination of such person's employment with the city, appear before any agency in the branch of city

government served by such person. For the purposes of this paragraph, the legislative branch of the city consists of the council and the offices of the council, and the executive branch of the city consists of all other agencies of the city, including the office of the president of the council.

4. No person who has served as a public servant shall appear, whether paid or unpaid, before the city, or receive compensation for any services rendered, in relation to any particular matter involving the same party or parties with respect to which particular matter such person had participated personally and substantially as a public servant through decision, approval, recommendation, investigation or other similar activities.

5. No public servant shall, after leaving city service, disclose or use for private advantage any confidential information gained from public service which is not otherwise made available to the public; provided, however, that this shall not prohibit any public servant from disclosing any information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest.

6. The prohibitions on negotiating for and having certain positions after leaving city service, shall not apply to positions with or representation on behalf of any local, state or federal agency.

7. Nothing contained in this subdivision shall prohibit a former public servant from being associated with or

having a position in a firm which appears before a city agency or from acting in a ministerial matter regarding business dealings with the city.

e. Allowed positions. A public servant or former public servant may hold or negotiate for a position otherwise prohibited by this section, where the holding of the position would not be in conflict with the purposes and interests of the city, if, after written approval by the head of the agency or agencies involved, the board determines that the position involves no such conflict. Such findings shall be in writing and made public by the board.

Sec. 2605. Reporting. No public servant shall attempt to influence the course of any proposed legislation in the legislative body of the city without publicly disclosing on the official records of the legislative body the nature and extent of any direct or indirect financial or other private interest the public servant may have in such legislation.

Section 2606. Penalties. a. Upon a determination by the board that a violation of section twenty-six hundred four or twenty-six hundred five of this chapter, involving a contract work, business, sale or transaction, has occurred, the board shall have the power, after consultation with the head of the agency involved, or in the case of an agency head, with the mayor, to render forfeit and void the transaction in question.

b. Upon a determination by the board that a violation of section twenty-six hundred four or twenty-six hundred five of this chapter has occurred, the board, after consultation with the

head of the agency involved, or in the case of an agency head, with the mayor, to impose fines of up to ten thousand dollars, and to recommend to the appointing authority, or person or body charged by law with responsibility for imposing such penalties, suspension or removal from office or employment.

c. Any person who violates section twenty-six hundred four or twenty-six hundred five of this chapter shall be guilty of a misdemeanor and, on conviction thereof, shall forfeit his or her public office or employment. Any person who violates paragraph ten of subdivision b of section twenty-six hundred four, on conviction thereof, shall additionally be forever disqualified from being elected, appointed or employed in the service of the city. A public servant must be found to have had actual knowledge of a business dealing with the city in order to be found guilty under this subdivision, of a violation of subdivision a of section twenty-six hundred four of this chapter.

d. Notwithstanding the provisions of subdivisions a, b and c of this section, no penalties shall be imposed for a violation of paragraph two of subdivision b of section twenty-six hundred four unless such violation involved conduct identified by rule of the board as prohibited by such paragraph.



## CHAPTER 69

### COMMUNITY DISTRICTS AND COTERMINALITY OF SERVICES

Sec. 2700. Declaration of intent. The capacity of the city to provide services to residents and businesses, the welfare and orderly development of communities in the five boroughs, and the active participation of city residents in civic activities has been impeded by

(1) the dissimilarity of local service delivery districts of municipal agencies and (2) the disparity among such service districts and the community districts and city council districts. It is the intent of this chapter to encourage and facilitate coterminous community districts and service districts to be used for the planning of community life within the city, the participation of citizens in city government within their communities, and the efficient and effective organization of agencies that deliver municipal services in local communities and boroughs.

Sec. 2701. Community districts. a. Not later than January first, nineteen hundred seventy-seven, the board of estimate, pursuant to this chapter, shall adopt a map of community districts.

b. Each community district shall:

(1) So far as feasible, lie within the boundaries of a single

borough and coincide with historic, geographic and identifiable communities from which the city has developed;

(2) Be suitable for the efficient and effective delivery of services by municipal agencies to be made coterminous with the community districts, pursuant to section two thousand seven hundred four, including particularly the service and districting requirements of the police and sanitation departments; and,

(3) Be compact and contiguous and have a population of not more than two hundred fifty thousand persons.

c. Community districts shall be as nearly equal in population with each other as is possible under the criteria in paragraphs one, two and three of subsection b.

d. The community districts may serve as the basis for city council districts for the election of council members pursuant to section twenty-two and other applicable law.

e. With respect to the city's central business district in the borough of Manhattan from fifty-ninth street south, the board of estimate may adopt as part of the community district map, districts which shall reflect its unique character as the city's financial, business and entertainment center. In so doing, the board of estimate shall take into consideration the residential, working and other daytime population as well as the hotel and transient or other nighttime populations and adhere as nearly as possible to the provisions of paragraph (3) of subdivision b of this section.

f. The community district map for the borough of Manhattan

shall include Roosevelt Island, located in the east river, as part of a community district in the borough of Manhattan, immediately opposite and to the west of Roosevelt Island. However, for the purposes of meeting the requirements of section twenty-seven hundred four relating to coterminality of local services, section twenty-seven hundred five relating to district service cabinets and section twenty-seven hundred seven relating to agency budget and service statements, Roosevelt Island shall be deemed included within a community district of the borough of Queens immediately opposite and to the east of Roosevelt Island. The chairperson of the community board of the Manhattan community district which includes Roosevelt Island, or his designee, shall be a member of the district service cabinet of each of the community districts in which Roosevelt Island is included in the respective boroughs.

Sec. 2702. Preparation and adoption of map. a. Not later than the first day of October, nineteen hundred seventy-six, the mayor shall prepare and present to the board of estimate a preliminary community district map pursuant to this chapter.

b. The city planning commission, community boards and other civic, community and neighborhood groups and associations shall be consulted and their recommendations considered in the preparation of the preliminary community district map.

c. The mayor shall publish the preliminary community district map in the City Record and in each county of the city and shall conduct public hearings on it.

d. The board of estimate shall conduct public hearings on the preliminary community district map submitted by the mayor and it shall adopt the map as submitted or as modified by it not later than the date specified in subsection a of section twenty-seven hundred one.

Sec. 2703. Modification and review. a. The community district map shall be reviewed within one year following the publication of each decennial census, and a new or revised community district map may be adopted pursuant to the criteria and procedures applicable to the creation of community districts pursuant to sections twenty-seven hundred one and twenty-seven hundred two. Such review shall consider shifts in population shown in the new census that may require adjustments in the community district map to conform to the criteria in section twenty-seven hundred one. b. The board of estimate, after public hearing on notice and consideration of any recommendation from the mayor, at any time may modify the community district map to assure conformance to the criteria in section twenty-seven hundred one.

Sec. 2704. Coterminality of local services. a. Within three years after the effective date of the community district map adopted pursuant to this chapter, the head of each agency shall organize the local service delivery districts of such agency as follows:

(1) To be coterminous with each of the community districts for local parks services; street cleaning and refuse collection



services; and social services, including community services, community development, youth services, child development, and special services for children; and,

(2) To be coterminous with one or more community districts or aggregates of them for housing code enforcement, highway and street maintenance and repair; sewer maintenance and repair, and health services, other than municipal hospitals.

b. Not later than the first day of January, nineteen hundred eighty-three the commissioner of the department of parks and recreation shall organize the department's service districts for local recreation services to be coterminous with each of the community districts.

c. No later than the first day of January, nineteen hundred eighty-three, the police commissioner shall organize the patrol services of the police department in the boroughs of the Bronx, Manhattan, Queens and Staten Island to be coterminous with each of the community districts in such boroughs. Not later than the first day of April, nineteen hundred eighty-four, the police commissioner shall organize the patrol services of the police department in the borough of Brooklyn to be coterminous with each of the community districts in that borough. Notwithstanding the provisions of this subdivision, the requirement that patrol services of the police department be coterminous with each of the community districts in any borough shall not apply to any community district where the mayor, after consultation with the police commissioner, shall determine that establishment of such

coterminality would be inconsistent with the most effective delivery of such services. The mayor shall promptly notify the council of any such determination, and the council may, by majority vote, disapprove such determination with respect to any community district within sixty days after the first stated meeting of the council following the receipt of such notice. If the council shall disapprove such determination with respect to any community district, the police commissioner shall organize patrol services to be coterminous with such district within ninety days of such disapproval.

d. The board of estimate, upon the recommendation of the mayor, may direct that city services in addition to those specified pursuant to subsection a of this section be made coterminous with one or more community districts or aggregates of them.

e. The head of each agency whose local service delivery districts are not required to be coterminous with community districts pursuant to subsection a or b of this section shall organize the local service delivery districts of the agency to coincide as closely as possible to the boundaries of the community districts.

f. For purposes of this section, coterminality of services shall mean that

(1) the boundaries of the local service districts of each designated agency service shall coincide with the boundaries of community districts, and

(2) the head of each designated agency shall assign to each such local service district at least one official with managerial responsibilities involving the exercise of independent judgment in the scheduling, allocation and assignment of personnel and equipment and the evaluation of performance or the management and planning of programs. Each such official shall have operating or line authority over agency programs, personnel and facilities within the local service district.

g. The head of any agency may assign or reallocate personnel, equipment or other resources outside a community district to meet emergency needs, special situations, or temporary conditions.

h. Nothing in this chapter shall prohibit any agency from maintaining sub-districts within a community district for purposes of efficient and effective service delivery so long as the combined sub-districts shall coincide with the boundaries of the community district. Nothing contained in this section shall prevent the establishment of any special district authorized pursuant to federal, state or local law, the boundaries of which do not coincide with the boundaries of a community district.

i. Whenever the population of a community district falls below seventy-five thousand persons, the city planning commission may consider whether partial suspension of coterminality within the district is likely to provide more efficient or effective service delivery of one or more of the services for which coterminality is required. The city planning commission shall give notice to all the affected community districts and shall hold a public

hearing. Following the hearing, the commission may recommend to the board of estimate that coterminality for one or more designated services within the community district and any adjacent district be suspended. If the board of estimate votes to approve the recommendation, coterminality shall be suspended for the designated services. The city planning commission may at any time recommend to the board of estimate that the suspension be terminated and that coterminality be restored for one or more of the services.

Sec. 2705. District service cabinet. a. There shall be a district service cabinet within each community district established pursuant to this chapter. The members of the district service cabinet shall include:

(1) The agency officials designated pursuant to subsection d of section twenty-seven hundred four;

(2) Representatives of other agencies that provide local service on a regular basis in the community district, who shall be the ranking line official assigned to the district;

(3) Each council member whose district comprises all or part of the community district;

(4) A representative of the department of city planning designated by director of city planning;

(5) The district manager appointed pursuant to subsection f of section twenty-eight hundred; and,

(6) The chairperson of the community board for the community district or his representative.



b. Each district service cabinet shall:

(1) Coordinate service functions and programs of the agencies that deliver services in the community district;

(2) Consider interagency problems and impediments to the effective and economic delivery of services in the district;

(3) Plan and recommend joint programs to meet the needs and priorities of community districts and their residents; and

(4) Consult with residents of the community district and their representatives about local service problems and activities.

Sec. 2706. Borough agency managers and borough service cabinets. a. The head of each agency delivering services in the boroughs so far as is practicable shall designate a senior official of the agency with line authority as borough representative of the agency with such coordinative or other duties and responsibilities as the head of the agency may specify.

b. There shall be a borough service cabinet within each borough whose members shall include the borough representatives designated pursuant to subsection a of this section, and the borough president, who shall be the chairperson. Each borough service cabinet shall:

(1) Coordinate at the borough level service delivery functions and programs of agencies that provide services in the borough;

(2) Consider interagency problems and impediments to the

effective and economic delivery of services in the borough;

(3) Plan and develop programs addressed to the needs and priorities of the borough and its residents; and

(4) Consult with residents of the borough and representatives of the community boards about service problems and activities.

Sec. 2707. Agency budgets and service statements. a. Each agency with service districts within the community districts and boroughs shall prepare annually a statement of its service objectives, priorities, programs and projected activities within each community district and each borough for the new fiscal year, if requested by the respective community board or borough board.

b. In preparing such statements for community districts the agencies shall consult with the respective district service cabinets and community boards. In preparing such statements for the borough, the agencies shall consult with the borough service cabinet and borough board. The statements shall be filed no later than August fifteenth with the mayor, board of estimate, council, community board or borough board.

c. By no later than three months after the end of the fiscal year, each agency with service districts within community districts or boroughs shall report to the respective community and borough boards the amount of expenditures within each service district for each unit of appropriation for the preceding year.

Sec. 2708. Agency information. Each agency with service districts within community districts and boroughs shall make available to each community board and borough board and to the

respective borough presidents current information on its operations and programs within each community district and borough.

## CHAPTER 70

## CITY GOVERNMENT IN THE COMMUNITY

Sec. 2800. Community boards. a. For each community district created pursuant to chapter sixty-nine there shall be a community board which shall consist of

(1) not more than fifty persons appointed by the borough president for staggered terms of two years, one-half of whom shall be appointed from nominees of the council members elected from council districts which include any part of the community district, and

(2) all such council members as non-voting members. One-half of the members first appointed to any new community board shall serve for a term of one year. The terms of all appointed members shall be calculated from the first day of January in the year in which they take office. Not more than twenty-five percent of the appointed members shall be city employees. No person shall be appointed to or remain as a member of the board who does not have a residence, business, professional or other significant interest in the district. The borough president shall assure adequate representation from the different geographic sections and neighborhoods within the community district. Community boards, civic groups and other community groups and neighborhood associations may submit nominations to the borough president and to council members.

b. An appointed member may be removed from a community board for cause by the borough president or by a majority vote of the



community board. Vacancies among the appointed members shall be filled by the borough president for the remainder of the unexpired term in the same manner as regular appointments.

c. Members of community boards shall serve as such without compensation but shall be reimbursed for actual and necessary out-of-pocket expenses in connection with attendance at regularly scheduled meetings of the community board.

d. Each community board shall:

(1) Consider the needs of the district which it serves;

(2) Cooperate with, consult, assist and advise any public officer, agency, local administrators of agencies, legislative body, or the borough president with respect to any matter relating to the welfare of the district and its residents;

(3) At its discretion hold public or private hearings or investigations with respect to any matter relating to the welfare of the district and its residents, but the board shall take action only at a meeting open to the public;

(4) Assist city departments and agencies in communicating with and transmitting information to the people of the district;

(5) Cooperate with the boards of other districts with respect to matters of common concern;

(6) Render an annual report to the mayor, the council and the borough board within three months of the end of each year and such other reports to the mayor or the borough board as they shall require (such reports or summaries thereof to be published in the City Record);

(7) Elect its own officers and keep a public record of its activities and transactions, including minutes of its meetings and majority and minority reports, which shall be made available to elected officials upon request;

(8) Request the attendance of agency representatives at meetings of the community board;

(9) Prepare comprehensive and special purpose plans for the growth, improvement and development of the community district;

(10) Consult with agencies on the capital needs of the district, review departmental estimates, hold public hearings on such needs and estimates and prepare capital budget priorities for the next fiscal year and the three succeeding fiscal years;

(11) Conduct public hearings and submit recommendations and priorities to the mayor, the board of estimate, the council and the city planning commission on the allocation and use within the district of funds earmarked for community development activities under city, state or federal programs;

(12) Consult with agencies on the program needs of the community district to be funded from the expense budget, review departmental estimates, hold public hearings on such needs and estimates, and prepare expense budget priorities for the next fiscal year;

(13) Assist in the planning of individual capital projects funded in the capital budget to be located in the community district and review scopes of projects and designs for each capital project;

(14) Evaluate the progress of capital projects within the community district based on status reports to be furnished to the board;

(15) Exercise the initial review of applications and proposals of public agencies and private entities for the use, development or improvement of land located in the community district, including the conduct of a public hearing and the preparation and submission to the city planning commission of a written recommendation;

(16) Assist agencies in the preparation of service statements of agency objectives, priorities, programs and projected activities within the community district and review such statements;

(17) Evaluate the quality and quantity of services provided by agencies within the community district; and

(18) Within budgetary appropriations for such purposes, disseminate information about city services and programs, process complaints, requests, and inquiries of residents of the community district.

e. Each agency shall furnish promptly to each community board on request any information or assistance necessary for the board's work. Each agency shall also report periodically to each board on its service activities programs and operations within the community district.

f. Each community board, within the budgetary appropriations therefor, shall appoint a district manager, who shall serve at

the pleasure of the community board. The district manager shall

(1) have responsibility for processing service complaints,

(2) preside at meetings of the district service cabinet and

(3) perform such other duties as are assigned by the community board. One of the board members shall be elected by the other

members to serve as chairperson. The chairperson shall use no

title other than chair or chairperson of the community board and

the other members shall use not title other than member of the

community board of community board member, except that any member

who is elected or appointed to an official position on the board,

including but not limited to, vice-chairperson, secretary,

treasurer, or chair of a committee or subcommittee of the board

shall be allowed to use such title when acting in such capacity.

The department of investigations shall investigate any

allegations concerning the misuse of a community board title and

shall report its findings to the mayor, the council and the

borough president in whose borough the community board is

located. The knowing and intentional use of an improper title by

any member of a community board shall be punishable by a civil

penalty of not less than one hundred dollars nor more than two

hundred and fifty dollars for every infraction thereof. The

chairperson of the community board or his or her representative

shall be a member of the district service cabinet. A member of a

community board shall be eligible for appointment to the position

of district manager provided that such member does not

participate in any manner in the selection of the district



manager by the board and resigns as a member of any board prior to or upon assuming the duties of district manager.

g. Each community board may employ such other assistants as it may require within budgeted appropriations for such purposes or funds contributed for such purpose. Any funds appropriated by the city to enable the community boards to conduct their duties and responsibilities pursuant to this chapter shall be allocated directly to each board subject to the terms and conditions of such appropriations.

h. Except during the months of July and August, each community board shall meet at least once each month within the community district and conduct at least one public hearing each month. The borough president shall provide each board with a meeting place if requested by the board.

i. Each community board may create committees on matters relating to its duties and responsibilities. It may include on such committees persons with a residence or significant interest in the community who are not members of the board, but each such committee shall have a member of the board as its chairperson.

Sec. 2801. Actions of community boards.--a. A majority of the appointed members of any community board shall constitute a quorum of such board.

b. Whenever any act is authorized to be done or any determination or decision made by any community board, the act, determination or decision of the majority of the members present entitled to vote during the presence of a quorum, shall be held

to be the act, determination or decision of such board.

## CHAPTER 71

## DEPARTMENT OF TRANSPORTATION

Sec. 2901. Department; commissioner. There shall be a department of transportation, the head of which shall be the commissioner of transportation.

Sec. 2902. Deputies. The commissioner may appoint four deputies, one of whom shall be in charge of highway operations and be a licensed professional engineer in good standing under the education law. The first deputy commissioner shall supervise and be responsible for the operations of the parking violations bureau.

Sec. 2903. Powers and duties of the commissioner. Except as otherwise provided by law, the commissioner shall have control over and be responsible for all those functions and operations of the city relating to transportation including, without limitation, the following:

[a. General.

(1) to prepare and transmit the budget estimates of the department as prescribed by law;

(2) to the extent to which the organization is not prescribed by law and in accordance with such standards and policies as may be established by the mayor, to organize the department into divisions, bureaus, boards or offices and make assignments of powers and duties among them and from time to time change such organization or assignments, provided, however, that the first deputy commissioner shall supervise and be responsible for the

operations of the parking violations bureau.]

[b.] a. Parking and traffic operations. The commissioner shall:

(1) make such rules and regulations for the conduct of vehicular and pedestrian traffic in the streets, squares, avenues, highways and parkways of the city as may be necessary. The violation of such rules and regulations shall be a traffic infraction triable by a judge of the criminal court of the city of New York and, except as otherwise provided by law, punishable by not more than fifteen days' imprisonment, or by a fine of not more than fifty dollars, or both, and may also be adjudicated pursuant to [chapter seventy-one] title nineteen of the administrative code or pursuant to articles 2-A and 2-B of the vehicle and traffic law. The police commissioner may, in an emergency, suspend for a period of forty-eight hours the provisions of any such rule or regulation and shall immediately notify the commissioner of such suspension. In order to expedite the movement of traffic or to safeguard pedestrians or property, a police officer or authorized employee of the transportation department may order a person to disregard any traffic signal or any such rule or regulation[.];

(2) establish, determine, control, install and maintain, [without the necessity of filing and publication,] the design, type, size and location of any and all signs, signals, marking, and similar devices indicating the names of the streets and other public places and for guiding, directing or otherwise regulating



and controlling vehicular and pedestrian traffic in the streets, squares, parks, parkways, highways, roads, alleys, marginal streets, bridges and other public ways of the city;

(3) make recommendations to the mayor as to the design and location of highway lighting devices, poles and fixtures, and the type of intensity of illumination of streets and highways;

(4) prepare and submit to the mayor a proposed comprehensive city traffic plan;

(5) collect and compile traffic data and prepare engineering studies and surveys in regard to vehicular and pedestrian traffic;

(6) prepare and submit to the mayor detailed reports in regard to traffic conditions in the city;

(7) make recommendations to the mayor in regard to methods of ameliorating traffic conditions which adversely affect the welfare of the city and which cannot be remedied by traffic rules and regulations;

(8) submit to the mayor from time to time for consideration and forwarding to appropriate city agencies, specific proposals for amendment of any resolutions, rules, or regulations of any city agency which affect traffic conditions in the city, and proposed legislation which may be necessary to implement and effectuate such proposals;

(9) prepare and submit to the mayor, for consideration and forwarding by him to the board of estimate, the council, the city planning commission and to other agencies of the city,

recommendations and proposals for the improvement of existing streets, street widening and the location of new streets, avenues, highways and parkways; the location and design of parking garages and parking areas; the establishment of public parking garages and parking areas; the location, type and design of off-street loading and unloading and parking facilities; and other matters relating to traffic control;

(10) coordinate the efforts of and consider the reports, recommendations and suggestions of public and private agencies and civic groups in regard to traffic conditions and traffic control in the city;

(11) prepare analyses of traffic accidents with a view to determining their causes and means for their prevention;

(12) carry on educational activities for the purpose of promoting traffic safety and free movement of vehicular and pedestrian traffic in the city;

(13) establish parking meter zones, determine the design, type, size, location and use of parking meters and fix the fees for parking in parking areas and public parking garages except that regulations pertaining to the use of parking meter zones shall not apply to vehicles operated by disabled persons duly displaying special vehicle identification cards issued by the commissioner other than at those periods of time when "no standing" restrictions are in effect in the metered zones. The parking fees and fines and penalties for violation of parking rules so collected shall be paid into a special fund to be known

as the "traffic improvement fund." The revenues of such fund, upon authorization by the board of estimate, shall be used for the payment of all costs of purchase, rental, engineering, installation, operation, maintenance and repair of parking meters, for the collection of coins, for the enforcement of rules and regulations pertaining to vehicular parking, the collections of fines and penalties for violation of such rules and regulations, and for the payment of interest on, amortization of, or payment of any indebtedness contracted by the city in connection with the installation, operation and maintenance of parking meters. Any revenues remaining after such payments are made shall be used for capital and other expenditures to ameliorate traffic conditions which adversely affect the welfare of the city;

(14) enforce laws, rules and regulations concerning the parking of vehicles and the movement and conduct of vehicular and pedestrian traffic;

(a) Notwithstanding the provisions of any other law the commissioner shall have the power, concurrently with the police department, to enforce all laws, rules and regulations prohibiting, regulating, directing, controlling or restricting both the parking of vehicles and the movement and conduct of vehicular and pedestrian traffic in and on all streets, squares, avenues, highways, parkways and public off-street parking facilities in the city. As used in this section the term "parking" shall mean and include the parking, standing and

stopping of vehicles at meters and off-street parking metered areas and on any highway in the city as such terms are defined in the traffic regulations of the city promulgated pursuant to law; and the term "highway" shall mean and include any highway or public highway as defined in sections one hundred thirty-four and sixteen hundred forty-two of the vehicle and traffic law.

(b) The commissioner may employ, hire and retain officers, agents and employees for the purpose of enforcing laws, rules and regulations prohibiting, regulating, directing, controlling or restricting the parking of vehicles and the movement and conduct of vehicular and pedestrian traffic, which officers, agents and employees are hereby authorized, empowered and designated to issue, make and serve tickets, summonses and complaints for traffic infractions pursuant to article two-A of the vehicle and traffic law and such rules and regulations as may be promulgated thereunder, to issue, make and serve simplified traffic informations and to issue, make and serve appearance tickets for traffic infractions, misdemeanors and violations related to the movement and conduct of vehicular traffic, pursuant to article two-B of the vehicle and traffic law and [chapter seventy-one] title nineteen of the administrative code of the city of New York and such rules and regulations as may be promulgated thereunder.

(15) issue special vehicle identification permits;

(a) Upon application, the commissioner shall issue a special vehicle identification permit to a New York city resident certified by the department of health as suffering from a



permanent disability seriously impairing mobility, who requires the use of private automobile for transportation and to a non-resident similarly certified who requires the use of a private automobile for transportation to a school in which such applicant is enrolled or to a place of employment, provided, however, that an applicant for such permit must possess an operator's or chauffeur's license with any restrictions indicating special devices or equipment required for the operation of a motor vehicle noted thereon by the department of motor vehicles.

(b) A vehicle bearing such special vehicle identification permit when parked shall not be deemed in violation of any of the provisions of the rules and regulations governing parking in the city except where such a vehicle shall be parked in a bus stop, a taxi-stand, within fifteen feet of a fire hydrant, a fire zone, a driveway, a crosswalk, a no stopping zone, a no standing zone, or where such vehicle is double parked.

(c) The name, address and telephone number where the permittee can be reached shall be written on the reverse side of the permit, not to be displayed to the public, but to be available for emergency purposes.

(d) Any person to whom a permit has not been issued, and who shall use a permit issued pursuant to this section for any purpose other than parking a motor vehicle while transporting a physically handicapped person, shall be guilty of a misdemeanor.

(e) Certifications by the department of health of applications

for special vehicle identification permits shall be made at those district health offices designated for such purpose by the commissioner of health. At least one such district health office shall be designated in each borough for special vehicle identification permit certifications. Such certifications shall be available by appointment at each of said borough health offices, or an alternative location within the borough as designated by the Commissioner by regulation, on a regular basis.

(16) operate and control the parking violations bureau[:].

[c] b. Highway operations. The commissioner shall have charge and control of the following functions relating to the construction, maintenance and repair of public roads, streets, highways, parkways, bridges and tunnels:

(1) regulating, grading, curbing, flagging and guttering of streets, including marginal streets and places, and the laying of crosswalks;

(2) designing, constructing and repairing of public roads, streets highways and parkways;

(3) paving, repaving, resurfacing and repairing of all public roads, streets, including marginal streets and places, highways and parkways and the relaying of all pavement removed for any cause including cleaning, sweeping, landscaping and maintenance functions for arterial highways as defined by regulation;

(4) filling of sunken lots, fencing of vacant lots, digging down of lots and licensing of vaults under sidewalks;

(5) regulation of the use and transmission of gas,

electricity, pneumatic power and steam for all purposes in, upon, across, over and under all streets, roads, avenues, parks, public places and public buildings; regulation of the construction of electric mains, conduits, conductors and subways in any streets, roads, avenues, parks and public places and the issuance of permits to builders and others to use or open a street; and to open the same for the purpose of carrying on the business of transmitting, conducting, using and selling gas, electricity or steam or for the service of pneumatic tubes, provided, however, that this subdivision shall not be construed to grant permission to open or use the streets except by persons or corporations otherwise duly authorized to carry on business of the character above specified;

(6) construction, alteration and maintenance of all bridges and tunnels. The commissioner shall issue a report to the mayor, board of estimate, city council and the people of the city about the condition of all bridges and tunnels operated and maintained by the department on March first, as of December thirty-first of the preceding calendar year. The report shall include a description of all capital and revenue budget funds appropriated for rehabilitation and maintenance of bridges and tunnels as well as the program developed by the commissioner for the maintenance of all bridges and tunnels in the city of New York[.];

(7) removal of encroachments on public roads, streets, highways and parkways, with the exception of seasonal horticultural operations, as defined by regulations to be adopted

by the commissioner, to be executed by the department of parks and recreation, and snow removal and de-icing operations to be carried out by the department of sanitation;

(8) clearing, grubbing, grading, filling or excavating of vacant lots and other land areas, as provided by law[.];

(9) installation of metal chain link fences or barriers on overpasses, footbridges, bridges or walkways extending over highways, roadways, parkways and streets. Every fence or barrier so installed shall extend a suitable height above the surface level of such overpass, footbridge, bridge or railing, abutment or curbing thereon or adjacent thereto[.];

(10) designing, constructing and maintaining a lighting system for streets, highways, parks and public places in the city.

[d]c. Ferries and general aviation. The commissioner shall:

(1) maintain and operate the ferries of the city;

(2) be responsible for constructing, acquiring, operating, maintaining or controlling all ferry boats, ferry houses, ferry terminals and equipment thereof and all wharf property and marginal roads adjacent to such wharves, ferry houses and terminals necessary for the operation of the ferries and related facilities, including parking sites; any ferry and any other such property, including but not limited to, all or part of such wharf property, may be leased in the same manner as other wharf property provided, however, that from and after the sixtieth day next succeeding the date on which the provisions of this paragraph as hereby amended takes effect, no substantial or



general change in the level of services furnished upon any such ferry facility under the jurisdiction of the commissioner shall be instituted, allowed or continued except upon not less than thirty days notice to the board of estimate and the city council. Provided, further that notice of such change shall be conspicuously posted in a public place at each ferry house and terminal for a continuous period of at least thirty days in advance of any such change taking effect and in addition, such notice shall further be published at least once during such thirty day period in a daily newspaper of general circulation in the city;

(3) have charge and control of all marine operations within the city and the power to regulate public and private ferry operations originating or terminating within the city;

(4) establish tours of ferry facilities and their related operations as well as tours of the New York harbor at fees to be established by the commissioner, together with the authority to publicize and advertise the same;

(5) issue permits for the control of television and photography activities within or upon ferries and related facilities;

(6) construct, operate and maintain marinas and public boat launching ramps and related facilities of ferry property and collect fees for the use thereof; such fees to be deposited in a special fund for the continued maintenance, operation or reconstruction of public marine facilities;

(7) have charge and control of the regulation for the health and safety of the general public of all airports, airplane landing sites, seaplane bases, heliports, marginal streets and parking facilities appurtenant thereto owned or possessed by the city; and

(8) have the exclusive power to regulate all privately owned airports, airplane landing sites, seaplane bases and heliports and the operation out of and into such bases as well as the control of ground effect craft and aircraft operations to or from other sites within the city not so designated as airports, heliports, airplane landing sites or seaplane bases.

[e] d. Mass transportation facilities. The commissioner shall:

(1) prepare or review plans and recommendations with respect to the nature, location, construction, operation and financing of roads, highways, bridges, tunnels, aviation facilities, subways or other facilities for mass transportation for use in whole or in part within the city whether or not the funds provided for such facilities are derived from the city treasury;

(2) develop and coordinate planning and programming for all forms of mass transportation within the city of New York whether or not said transportation is within the sole operating jurisdiction of the city of New York; and

(3) make recommendations to the mayor, the metropolitan transportation authority, the New York city transit authority, the port authority of New York and New Jersey and other city, state and federal authorities and agencies concerning the mass

transit needs of the city of New York.

Sec. 2904. Duties and obligations of property owner with respect to sidewalks, fencing of vacant lots and filling of sunken lots or cutting down of raised lots. The owner of any property at his own cost, shall

(1) install, reconstruct, repave and repair the sidewalk in front of or abutting such property, including but not limited to the intersection quadrant for corner property, and

(2) fence any vacant lot or lots comprising part or all of such property and fill any sunken lot or lots comprising part or all of such property or cut down any raised lot or lots comprising part or all of such property whenever the transportation department shall so order pursuant to standards and policies of the transportation department. In the event that the owner fails to comply with the provisions of this section, the transportation department may provide for the doing of same at the expense of the owner in the manner to be provided by local law.

Sec. 2905. Right of entry. The commissioner or his agent when authorized by him may in accordance with law enter upon public or private property the purpose of making surveys, borings or other investigations necessary for the exercise of the powers or the performance of the duties of the department. Refusal to permit such entry shall be triable by the judge of the criminal court of the city of New York and punishable by not more than thirty days' imprisonment or by a fine of not more than fifty

dollars or both.

Sec. 2906. Improved traffic flow at highway construction sites. The commissioner may provide that on any city-sponsored, authorized or assisted arterial highway construction site, or major repair site that in the discretion of the commissioner is likely to substantially disrupt traffic, signs be posted at least one half mile or more prior to the area under construction or repair warning motorists of the fact that such work is in progress and, wherever possible, advising of an available alternate route.



## CHAPTER 72

## DEPARTMENT OF RECORDS AND INFORMATION SERVICES

Sec. 3000. Department; commissioner. There shall be a department of records and information services which shall include, but not be limited to, municipal archives, a municipal reference and research center and municipal records [center] management division. The head of the department shall be the commissioner, who shall be appointed by the mayor.

Sec. 3001. Deputy. The commissioner may appoint one deputy.

[Sec. 3002. Technical Assistants. The commissioner may employ technical experts and such other employees as may be required to perform the duties of the department within the appropriations made available therefor.]

Sec. 3003. Powers and duties. The commissioner: 1. shall be the chief archivist of the city and shall advise the mayor, board of estimate and council on those matters concerning the preservation of the city's historical documentation:

2. shall act as the chief reference and research librarian for the mayor, board of estimate and council and shall ensure that all significant research material pertaining to the operations of the city as well as other municipalities shall be preserved and readily available for use;

3. shall act as the chief public records [manager] officer for the mayor, board of estimate and council and shall, except as otherwise provided by law, establish standards for the proper

records management in any agency or government instrumentality funded in whole or in part from local tax levy monies, and

4. shall have the power to exercise or delegate any of the functions and duties vested in him by law

Sec. 3004. Department; duties. 1. The department shall operate a municipal archives, the head of which shall be a professional archivist. The archives shall perform the following functions:

a. develop and promulgate standards, procedures and techniques with regard to archives management;

b. make continuing surveys of existing records to determine the most suitable methods to be used for the creating, maintaining, storing and servicing of archival material;

c. preserve and receive all city records of historical, research, cultural or other important value;

d. appraise, accession, [collect], classify, arrange and make available for reference all records which come into the possession of the archives; and

e. establish and maintain an archives depository for the storage, conservation, processing and servicing of records.

2. The department shall operate a municipal reference and research center, the head of which shall be a professional librarian. The center shall perform the following functions:

a. provide information and assistance to the mayor, the board of estimate, members of committees thereof and administrative officers of the city in connection with problems of municipal

administration and proposed legislation;

b. provide legislative reference assistance to the council, its members and committees and maintain, in a legislative [library] reference section, such records and papers as the council and city clerk may remand to its custody;

c. maintain facilities which shall be open to the public wherein, subject to such reasonable regulation as may be prescribed, all books, reports, documents and other materials shall be available for public inspection;

d. ensure that at least one copy of each report, document, study or publication of the city or any of its administrations, departments, boards or other agencies shall be available at the center at all times;

[d]e. collect, compile and maintain data and information pertaining to the operation of the city as well as other municipalities, governmental bodies and public authorities and arrange for the exchange, sale, purchase and loan of information materials from and with legislative and research services, libraries and institutions in other municipalities, governmental bodies and public authorities [and].

3. The department shall:

[e.] a. provide for the distribution of publications of the city, where such authority is not vested in another city agency, and issue at regular intervals, no less than quarterly, a bulletin describing its facilities and resources.

[f.] b. institute actions in replevin to recover any

historical and/or other documents properly owned by, or originating from, the city of New York.

[g.] c. report annually by the thirtieth of September to the mayor, board of estimate and city council on the powers and duties hereinmentioned including but not limited to the cost of savings effectuated by the department [on the first of March, as of December thirty-first of the preceding calendar] during the preceding fiscal year.

[The head of each agency shall transmit to the center at least four copies of each report, document, study or publication of such agency, immediately after the same shall have been issued. He shall transmit to the center four copies of each report, document, study or publication prepared by consultants, or other independent contractors, as soon as such report or study is released. At least one copy of each report, document, study or publication of the city or any of its administrations, departments, boards or other agencies shall be available at the center at all times.]

[3.] 4. The department shall operate a municipal records [center] management division, the head of which shall be a professional records manager. The center shall perform the following functions:

a. develop and promulgate standards, procedures and techniques in relation to records management;

b. make continuing surveys of operations relating to records and recommend improvements in current records management



practices, including the use of space, equipment and materials employed in the creation, maintenance, storage and servicing of records;

c. establish standards for the preparation of schedules for the disposition of records, providing for the retention of records and archives of continuing value, and for the prompt and orderly disposal of records no longer possessing sufficient administrative, legal or fiscal value to warrant their further retention and

d. establish, maintain and operate facilities for the storage, processing and servicing of records for all city agencies pending their deposit in the municipal archives or their disposition in any manner as may be authorized by law.

[Sec. 3005. Disposal of records. No records shall be destroyed or otherwise disposed of by an agency of the city unless approval has been obtained from the commissioner, the corporation counsel and the agency which created or has jurisdiction over the records who shall base their determinations on the potential administrative, fiscal, legal, research or historical values of the record. Approval for records disposal schedule and remain in force until the status of the records changes. The commissioner or the agency which created or has jurisdiction over the records may initiate action to eliminate records eligible for disposal. The commissioner shall insure the destruction of disposable records within six months of the date of eligibility. Records retained for historical or research

purposes shall be transferred, upon request of the commissioner, to the municipal archives for permanent custody.

Sec. 3006. Destruction of other materials. Other materials not included within the definition of records in this chapter may be destroyed, if not otherwise prohibited by law, at any time by the agency in possession of such materials without the approval of the commissioner. The commissioner, may, however, formulate procedures and interpretations to guide in the disposition of such materials.]

Sec. 3007. Departmental libraries. [1]. The commissioner shall analyze the needs of each city agency, except the law department, with respect to the establishment and maintenance of any library or research facility therein, and make such recommendations as may be appropriate in the circumstances.

[2. No agency, except the law department, shall establish, fund or operate any departmental library or employ any departmental librarian without the express approval and consent of the commissioner.

3. Departmental libraries in every city agency, except the law department, shall be funded and operated by the department of records and information services.

4. Purchases of books, documents, informational materials, subscriptions and library equipment for all city agencies, except the law department, shall be made from funds of the department by the commissioner. Each agency shall request such materials in a budgetary procedure established by the department and the office

of Budget and Management.]

Sec. 3008. Rules and Regulations. The commissioner shall promulgate rules and regulations to effectuate the purposes of this chapter, except that rules and regulations relating to the disposal of records pursuant to section three thousand five of this chapter shall be issued by the commissioner after consultation with the corporation counsel and the comptroller.

Sec. 3009. Archives, reference and research advisory board. There shall be in the department an archives, reference and research advisory board which shall consist of fifteen members who shall be appointed by the mayor and which shall consult with the commissioner with respect to the functions referred to in subdivisions one and two of section three thousand four of this chapter to advise him in matters at his request and render annually to the mayor a report regarding the development of municipal archives, reference and research services in the government and administration of the city.

Sec. 3010. Municipal archives reference and research fund. 1. There is hereby established a municipal archives reference and research fund, which shall be credited with all sums appropriated therefor, donations made thereto, and proceeds from the disposition of personal property which is in the custody of the department and which the commissioner has determined is not a record which must be retained pursuant to law and is not necessary for archival, reference, or research purposes. Interest accruing on principal from all aforementioned sources also shall

be credited to the fund.

2. The municipal archives reference and research fund established by this section shall be used, subject to the approval of the director of management and budget, by the department for purposes related to its library and archival research programs including, but not limited to, purchasing and conserving books and other records, financing lecture series and commissioning studies and articles.

Sec. 3011. Definitions. As used in this chapter 1. "Archives" means those official records which have been determined by the department to have sufficient historical or other value to warrant their continued preservation by the city;

2. "Records" means any documents, books, papers, photographs, sound recordings, machine readable materials or any other materials, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official city business. Library and museum materials made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference and stocks of publications are not included within the definition of records as used in this chapter;

3. "Records management" means the planning, controlling, directing, organizing, training, promoting and other managerial activities involved in records creation, records maintenance and use and records disposition, including but not limited to, the



management of correspondence, forms, directives, reports, machine readable records, microfilms information retrieval, files, mail, vital records, equipment and supplies, office copiers, word processing and source data automation techniques, records preservation, records disposal and records centers or other storage facilities;

4. "Records management practices" means any system, procedure or technique followed with respect to effective records creation, records maintenance and use and records disposition;

5. "Records disposition" means: a. The removal by a city agency, in accordance with approved records [control] retention schedules, of records no longer necessary for the conduct of business by such agency through removal methods which may include:

(1) the disposal of temporary records by destruction or donation;

(2) the transfer of records to the department, and

(3) the transfer to the department of records determined to have historical or other sufficient value to warrant continued preservation and

b. the transfer of records from one city agency to any other city agency;

6. "Records creation" means any process involved in producing any recorded information necessary to conduct the business of a city agency;

7. "Records [center] management division" means an

establishment maintained by the department primarily for the storage, servicing, security and processing of records which must be preserved for varying periods of time and need not be retained in office equipment or space and

8. "Servicing" means making information in records available to any city agency for official use or to the public.

CHAPTER 73DEPARTMENT OF EMPLOYMENT

Section 3012. Department; commissioner. There shall be a department of employment, the head of which shall be the commissioner of employment.

Section 3013. Powers and duties. The department shall have the following powers and duties:

a. to advise and assist the mayor in developing policies designed to meet the job training and employment needs of the economically disadvantaged and unemployed residents of the city of New York, as well as the labor needs of private industry;

b. to provide job training and employment services for economically disadvantaged and unemployed residents of the city of New York:

(1) to disburse available city, state and federal funds for job training and employment programs throughout the city, and, when practical, to coordinate such funds with available funding from the private sector;

(2) to maintain, operate and control such programs as may be necessary or required to achieve the objectives of the department;

c. to promote cooperation among business, labor and community organizations in response to labor market conditions;  
and

d. to promote public awareness of resources available for

the economically disadvantaged and unemployed, and to refer the public to appropriate job training and employment services.