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Summary of Final Proposals (Adopted during public meetings on July 31, Aug. 1, and Aug. 2, 1989) & Charter of the City of New York (Proposed by the Commission August 1989)

New York City Charter Revision Commission

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Summary of Final proposals
(Adopted during public meetings
on July 31, Aug. 1 and Aug 2,
1989)

Charter of the City of
New York
(Proposed by the Commission
August, 1989)

Charter of the City of New York



Proposed by the New York City Charter Revision Commission

August 1989

Foreword

The attached 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 7, 1989 general election. While this attachment includes many entire chapters of the charter, only the deletions and insertions indicated are being proposed by the Commission. The other (non-bracketed, non-underlined) material represents the current charter.

The attached document in which the Commission's proposed deletions and insertions are shown does not reflect all amendments to the charter made by state and local laws since the summer of 1988. The official version of the charter to be filed with the city clerk will reflect such previous changes in the underlying document.

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* Only the chapters marked by asterisks are included.

** Only the two affected sections of this chapter are included.

CHAPTER 1

MAYOR

Sec. 3. Office powers. The mayor shall be the chief executive officer of the city.

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. Such statement shall include a summary of the city's progress in implementing the goals and strategies contained in the final strategic policy statement issued pursuant to section seventeen of this charter.

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.

Sec. 8. General powers. The mayor, subject to this charter, shall exercise all the powers vested in the city, except as

1 otherwise provided by law.

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

8 b. The mayor shall be a magistrate.

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

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

27 e. The mayor shall establish a professional internal audit
28 function in the executive office of the mayor which is sufficient
29 to provide the mayor with such information and assurances as the
30 mayor, as the chief executive of the city, requires to ensure the
31 proper administration of the city's affairs and the efficient
32 conduct of its business.

33 f. Except as otherwise provided in section eleven, the mayor
34 may, by executive order, at any time, create or abolish bureaus,

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

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

15 Sec. 10. Succession. a. In case of the suspension of the
16 mayor from office, the mayor's temporary inability to discharge
17 the powers and duties of the office of mayor by reason of sickness
18 or otherwise, or the mayor's absence from the city, the powers and
19 duties of the office of mayor shall devolve upon the president of
20 the council or the comptroller in that order of succession until
21 the suspension, inability or absence shall cease. While so acting
22 temporarily as mayor neither the president of the council nor the
23 comptroller shall exercise any power of appointment to or removal
24 from office or any power lawfully delegated by the mayor to a
25 deputy mayor before the commencement of such suspension or
26 inability, or before or after the commencement of such absence; and
27 shall not, until such suspension, inability or absence shall have
28 continued nine days, sign, approve or disapprove any local law or
29 resolution, unless the period during which the mayor can act
30 thereon would expire during said nine days in which case the
31 president of the council or the comptroller shall have the power
32 to disapprove the same within forty-eight hours before the time to
33 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 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 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

1 shall be designated by the mayor, and the borough president with
2 the longest consecutive service as borough president. If two or
3 more borough presidents have served for an equal length of time,
4 one of such borough presidents shall be selected by lot to be a
5 member of such committee. If at any time there is no valid mayoral
6 designation in force, the deputy mayor with the longest consecutive
7 service as a deputy mayor shall be a member of such committee. The
8 authority to act as a member of such committee shall not be
9 delegable.

10 (b) Such committee by affirmative declaration of no fewer than
11 four of its members shall have the power to make the declarations
12 described in paragraphs four and five of this subdivision. No such
13 declaration shall be effective unless signed by all the members
14 making it.

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

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

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

1 its declaration.

2 (b) If personal service of the committee's declaration upon the
3 mayor cannot be accomplished, or if such service has been
4 accomplished but the mayor has not transmitted a declaration that
5 he or she is able to discharge the powers and duties of the office
6 of mayor within forty-eight hours after receipt of such
7 declaration, such powers and duties shall devolve upon the official
8 next in line of succession, subject to the provisions of
9 subdivision a of this section, unless and until the mayor resumes
10 the authority to discharge such powers pursuant to the provisions
11 of subparagraphs (e) or (f) of this paragraph.

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

28 (d) If, at any time prior to a final determination by the panel
29 pursuant to subparagraph (c) of this paragraph the mayor transmits
30 a voluntary declaration of temporary inability pursuant to the
31 provisions of paragraph one of this subdivision, to the official
32 next in line of succession, the members of the committee on mayoral
33 inability, the members of the panel on mayoral inability, and the
34 city clerk, then the procedures set forth in paragraph one of this

1 subdivision shall be followed.

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

17 (f) If the committee transmits a declaration that the mayor
18 remains unable to discharge the powers and duties of the office of
19 mayor, the mayor shall not resume the discharge of the powers and
20 duties of the office of mayor unless and until the panel on mayoral
21 inability, within twenty-one days of its receipt of such
22 declaration, determines by two-thirds vote of all its members that
23 the inability has in fact ceased. Upon such a determination by the
24 panel, or after the expiration of twenty-one days, if the panel
25 has not acted, the mayor shall resume the discharge of the powers
26 and duties of the office of mayor.

27 5. Permanent inability. (a) Whenever the committee on mayoral
28 inability personally serves or causes to be personally served upon
29 the mayor and transmits to the official next in line of succession,
30 the members of the panel on mayoral inability and the city clerk,
31 its declaration that the mayor is permanently unable to discharge
32 the powers and duties of the office of mayor, together with its
33 reasons for such declaration, the panel on mayoral inability shall,
34 within twenty-one days after its receipt of such declaration,

1 determine whether or not the mayor is permanently unable to
2 discharge the powers and duties of the office of mayor.

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

9 6. Continuation of salary; disability allowance. (a) During the
10 time that any official is acting as mayor pursuant to a
11 determination of temporary inability, the mayor shall continue to
12 be paid the salary of the office of mayor, and the acting mayor
13 shall continue to be paid the salary of the office to which such
14 person was elected.

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

31 Sec. 11. Reorganization of agencies under jurisdiction of
32 mayor. a. The agencies existing on the effective date of this
33 section are continued except as otherwise provided in the charter
34 or as otherwise provided by state or local law enacted since that

1 date or by any actions taken by the mayor pursuant to this section
2 since that date. To achieve effective and efficient functioning
3 and management of city government, the mayor may organize or
4 reorganize any agency under his jurisdiction, including the
5 authority to transfer functions from one agency to another; create
6 new agencies; eliminate existing agencies; and consolidate or merge
7 agencies. Any action by the mayor pursuant to this subdivision
8 shall be termed a "reorganization plan" and shall be published in
9 the City Record.

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

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

26 d. The text of a reorganization plan approved pursuant to
27 subdivision c of this section shall appear as a part of the
28 administrative code.

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

32 f. The authority of the mayor pursuant to this section shall
33 not apply (1) to any matter which would otherwise require the
34 submission of a local law for the approval of the electors pursuant

1 to section thirty-nine, or (2) to any board or commission
2 established pursuant to a provision of this charter.

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

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

11 (1) a statement of actual performance for the first four months
12 of the current fiscal year relative to the program performance
13 goals and measures established for such year;

14 (2) proposed program [and] performance goals and measures for
15 the next fiscal year reflecting budgetary decisions made as of the
16 date of submission of the [plan] preliminary budget; [and]

17 (3) an explanation in narrative and/or tabular form of
18 significant changes in the program performance goals and
19 [indicators] measures from the adopted budget condition to the
20 current budget as modified and from said modified budget to the
21 preliminary budget statements; and

22 (4) an appendix indicating the relationship between the program
23 performance goals and measures included in the management report
24 pursuant to paragraph two of this subdivision and the corresponding
25 appropriations contained in the preliminary budget.

26 c. The management report shall contain for each agency

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

29 (2) a statement of actual performance for the entire
30 previous fiscal year relative to program performance goals; [and]

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

1 control environment and system[.];

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

4 (a) the number of rulemaking actions taken,

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

9 (c) the number of such actions which were adopted under the
10 emergency rulemaking procedures[.];

11 (5) a summary of the procurement actions taken during the
12 previous fiscal year, including: (i) for each of the procurement
13 methods specified in section three hundred forty-two: the number
14 and dollar value of the procurement contracts entered into during
15 such fiscal year; and (ii) for all procurement contracts entered
16 into pursuant to a procurement method other than that specified in
17 paragraph one of subdivision a of section three hundred forty-two:
18 the number and dollar value of such procurement contracts by each
19 of the reasons specified in paragraph one of subdivision b of
20 section three hundred forty-two; and

21 (6) an appendix indicating the relationship between the program
22 performance goals included in the management report pursuant to
23 paragraph two of this subdivision and the corresponding
24 expenditures made pursuant to the adopted budget for the previous
25 fiscal year.

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

32 e. Prior to April eighth in each year the council shall conduct
33 public hearings [jointly with the board of estimate] on the
34 preliminary management report and on the proposed program and

1 performance goals and measures of city agencies contained in such
2 report. The council [and the board of estimate] shall submit to
3 the mayor and make public not later than April eighth a report or
4 reports of findings and recommendations.

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

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

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

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

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

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

24 [(c)]. Powers and duties. The office: 1. shall have such
25 powers as provided by the director of the state veterans' service
26 agency and shall have the duty to inform military and naval
27 authorities of the United States and assist members of the armed
28 forces and veterans, who are residents of this state, and their
29 families, in relation to (a) matters pertaining to educational
30 training and retraining services and facilities, (b) health,
31 medical and rehabilitation service and facilities, (c) provisions
32 of federal, state and local laws and regulations affording special
33 rights and privileges to members of the armed forces and veterans
34 and their families, (d) employment and re-employment services, and

1 (e) other matters of similar, related or appropriate nature. The
2 office also shall perform such other duties as may be assigned by
3 the state director of the division of veterans' affairs;

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

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

15 Sec. 15. Office of Operations. a. There shall be, in the
16 executive office of the mayor, an office of operations. The office
17 shall be headed by a director, who shall be appointed by the mayor.

18 b. The director of the office of operations shall have the
19 power and the duty to:

20 1. plan, coordinate and oversee the management of city
21 governmental operations to promote the efficient and effective
22 delivery of agency services;

23 2. review and report on the city's management organization
24 including productivity and performance functions and systems;

25 3. maintain for the mayor a management, planning and reporting
26 system and direct the operation of such system; and

27 4. review the city's operations and make recommendations,
28 where appropriate, for improving productivity, measuring
29 performance and reducing operating expenses.

30 c. There shall be an office of the language services
31 coordinator within the office of operations. Within appropriations
32 therefor, the coordinator shall appoint such experts and assistants
33 as necessary to fulfill the duties assigned to the office by this
34 charter. The office of the language services

1 coordinator shall have the following powers and duties.

2 1. To establish standards and criteria, to be used by city
3 agencies which provide services to the public, for estimating, and
4 reporting on, the need to provide such services in languages other
5 than English.

6 2. To provide technical assistance to such city agencies in
7 developing appropriate plans and programs to: (i) deliver their
8 services in languages other than English, (ii) translate written
9 materials into such languages, and (iii) educate the public about
10 such agency plans and programs.

11 3. In conjunction with a committee of agency representatives,
12 to develop testing materials to evaluate the ability of city
13 employees to deliver services in languages other than English; to
14 develop materials to be used in the training of such employees;
15 and, either on its own or in cooperation with the appropriate
16 agencies, to provide such training.

17 4. To monitor and report on the performance of city agencies
18 in delivering services in languages other than English.

19 5. To maintain in a central place which is accessible to the
20 public a library of written materials published by city agencies
21 in such languages.

22 Sec. 16. Report on social indicators. The mayor shall
23 submit an annual report to the council, borough presidents, and
24 community boards analyzing the social, economic and environmental
25 health of the city and proposing strategies for addressing the
26 issues raised in such analysis. The report shall present and
27 analyze data on the social, economic and environmental conditions
28 which are significantly related to the jurisdiction of the agencies
29 responsible for the services specified in section twenty seven
30 hundred four, the health and hospitals corporation, and such other
31 agencies as the mayor shall from time to time specify. The report
32 shall include the generally accepted indices of unemployment,
33 poverty, child welfare, housing quality, homelessness, health,
34 physical environment, crime, and such other indices as the mayor

1 shall require by executive order or the council shall require by
2 local law. Such report shall be submitted no later than sixty days
3 before the community boards are required to submit budget
4 priorities pursuant to section sixty-one and shall contain: (1) the
5 reasonably available statistical data, for the current and previous
6 five years, on such conditions in the city and, where possible, in
7 its subdivisions; and a comparison of this data with such relevant
8 national, regional or other standards or averages as the mayor
9 deems appropriate; (2) a narrative discussion of the differences
10 in such conditions among the subdivisions of the city and of the
11 changes over time in such conditions; and (3) the mayor's short and
12 long term plans, organized by agency or by issue, for responding
13 to the significant problems evidenced by the data presented in the
14 report.

15 Sec.17. Strategic policy statement. a. On or before the
16 fifteenth day of November of nineteen hundred ninety, and every
17 four years thereafter, the mayor shall submit a preliminary
18 strategic policy statement for the city to the borough presidents,
19 council, and community boards. Such preliminary statement shall
20 include: (i) a summary of the most significant long-term issues
21 faced by the city; (ii) policy goals related to such issues; and
22 (iii) proposed strategies for meeting such goals. In preparing the
23 statement of strategic policy, the mayor shall consider the
24 strategic policy statements prepared by the borough presidents
25 pursuant to subdivision fourteen of section eighty-two of this
26 charter.

27 b. On or before the first day of February of nineteen hundred
28 ninety-one, and every four years thereafter, the mayor shall submit
29 a final strategic policy statement for the city to the borough
30 presidents, council and community boards. The final statement shall
31 include such changes and revisions as the mayor deems appropriate
32 after reviewing the comments received on the preliminary strategic
33 policy statement.

1 CHAPTER 2

2 COUNCIL

3 Sec. 21. [Legislative power] The Council. There shall be a
4 council which shall be the legislative body of the city. In
5 addition to the other powers vested in it by this charter and other
6 law, the council shall be vested with the legislative power of the
7 city [, and shall be the local legislative body of the city]. Any
8 enumeration of powers in this charter shall not be held to limit
9 the legislative power of the council, except as specifically
10 provided in this charter.

11 Sec. 22. Composition of council.

12 a. The council shall consist of the president of the council
13 and of fifty-one other members termed council members. Consistent
14 with state law, the size of the council and the number of districts
15 from which council members are elected may be increased by local
16 law without any further approval in accordance with section thirty
17 eight of this chapter.

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

20 Sec. [33]23. Council members not to be employees of agencies.
21 No council member shall be an employee of any agency in any
22 capacity whatever.

23 Sec. [23]24. President of the council. a. The president of
24 the council shall be elected by the electors of the city at the
25 same time and for the same term as in this charter prescribed for
26 the mayor.

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

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

32 1. Within three days of the occurrence of a vacancy in the
33 office of the council president, the mayor shall proclaim the date

1 for the election or elections required by this subdivision, provide
2 notice of such proclamation to the city clerk and the board of
3 elections and publish notice thereof in the City Record. After the
4 proclamation of the date for an election to be held pursuant to
5 paragraphs four or five of this subdivision, the city clerk shall
6 publish notice thereof not less than twice in each week preceding
7 the date of such election in newspapers distributed within the
8 city, and the board of elections shall mail notice of such election
9 to all registered voters within the city.

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

26 3. If a special or general election to fill the vacancy on an
27 interim basis has not been previously held pursuant to paragraphs
28 four, six, seven and eight of this subdivision, the person elected
29 to fill the vacancy for the remainder of the unexpired term at a
30 general election shall take office immediately upon qualification
31 and shall serve until the term expires. If a special or general
32 election to fill the vacancy on an interim basis has been
33 previously held, the person elected to fill the vacancy for the
34 remainder of the unexpired term at a general election shall take

1 office on January first of the year following such general election
2 and shall serve until the term expires.

3 4. If a vacancy occurs during the first three years of the
4 term and on or before the last day in the third year of the term
5 on which an occurring vacancy may be filled for the remainder of
6 the unexpired term at a general election with party nominations of
7 candidates for such election being made at a primary election, as
8 provided in section 6-116 of the election law, a special or general
9 election to fill the vacancy on an interim basis shall be held,
10 unless the vacancy occurs less than ninety days before the next
11 primary election at which party nominations for a general election
12 to fill the vacancy may be made and on or before the last day on
13 which an occurring vacancy may be filled for the remainder of the
14 unexpired term at the general election in the same year in which
15 the vacancy occurs with party nominations of candidates for such
16 election being made at a primary election, as provided on section
17 6-116 of the election law.

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

27 6. Elections held pursuant to paragraph four or five of this
28 subdivision shall be scheduled in the following manner: A special
29 election to fill the vacancy shall be held on the first Tuesday at
30 least forty-five days after the occurrence of the vacancy, provided
31 that the mayor, in the proclamation required by paragraph one of
32 this subdivision, may schedule such election for another day no
33 more than ten days after such Tuesday and not less than forty days
34 after such proclamation if the mayor determines that such

1 rescheduling is necessary to facilitate maximum voter
2 participation; except that

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

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

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

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

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

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

6 d. The president of the council may, by written authority filed
7 with the [board of estimate] appropriate board, body, or committee
8 and with the city clerk, designate any two officers or employees
9 appointed by the president to exercise the powers specified in this
10 subdivision. Either such officer or employee, so designated, may
11 act in the place of the president of the council [as a member of
12 the board of estimate] on any board, body or committee, other than
13 the council, of which the president of the council is a member
14 whenever the president of the council[, although present in the
15 city,] shall be absent from a meeting of said board, body or
16 committee for any reason whatever.

17 e. The president of the council shall preside over the meetings
18 of the council and shall have the right to participate in the
19 discussion of the council but shall not have a vote except in case
20 of a tie.

21 f. In addition to other duties and responsibilities, the
22 president of the council shall serve as the public advocate and
23 shall (1) [oversee the coordination of city-wide citizen] monitor
24 the operation of the public information and service complaint
25 programs[, of city agencies and make proposals to improve such
26 programs; [and] (2) review complaints of a recurring and
27 multiborough or city-wide nature relating to services and programs,
28 and make proposals to improve the city's response to [and
29 processing of] such complaints; (3) receive individual complaints
30 concerning city services and other administrative actions of city
31 agencies; and (4) investigate and otherwise attempt to resolve such
32 individual complaints except for those which (i) another city
33 agency is required by law to adjudicate, (ii) may be resolved
34 through a grievance mechanism established by collective bargaining

1 agreement or contract, or (iii) involve allegations of conduct
2 which may constitute a violation of criminal law or a conflict of
3 interest. If the president of the council receives a complaint
4 which is subject to a procedure described in items (i) or (ii) of
5 this paragraph, the president of the council shall advise the
6 complainant of the appropriate procedure for the resolution of such
7 complaint. If the president of the council receives a complaint of
8 the type described in item (iii) of this paragraph, the president
9 of the council shall promptly refer the matter in accordance with
10 subdivision k of this section.

11 g. The president of the council shall establish procedures
12 for receiving and processing complaints, responding to
13 complainants, conducting investigations, and reporting findings,
14 and shall inform the public about such procedures. Upon an initial
15 determination that a complaint may be valid, the president of the
16 council shall refer it to the appropriate agency. If such agency
17 does not resolve the complaint within a reasonable time, the
18 president of the council may conduct an investigation and make
19 specific recommendations to the agency for resolution of the
20 complaint. If, within a reasonable time after the president of the
21 council has completed an investigation and submitted
22 recommendations to an agency, such agency has failed to respond in
23 a satisfactory manner to the recommendations, the president of the
24 council may issue a report to the council and the mayor. Such
25 report shall describe the conclusions of the investigation and make
26 such recommendations for administrative, legislative, or budgetary
27 action, together with their fiscal implications, as the president
28 of the council deems necessary to resolve the individual complaint
29 or complaints or to address the underlying problems discovered in
30 the investigation.

31 h. In addition to other duties and responsibilities, the
32 president of the council may review the programs of city agencies.
33 Such reviews shall include, but not be limited to, annual
34 evaluations of: (1) the implementation of the requirements for

1 coterminality of local services contained in all subdivisions of
2 section twenty seven hundred four; (2) the effectiveness of the
3 public information and service complaint programs of city agencies;
4 and (3) the responsiveness of city agencies to individual and group
5 requests for data or information regarding the agencies' structure,
6 activities and operations. The president of the council shall
7 submit any reports documenting or summarizing such reviews to the
8 council, mayor and appropriate agency and shall include in such
9 reports his or her recommendations for addressing the problems
10 identified and the fiscal implications of such recommendations.

11 i. Except for those matters which involve conduct which may
12 constitute a violation of criminal law or a conflict of interest,
13 the president of the council may, on the request of a resident,
14 taxpayer, community board, council member or borough president, or
15 on his or her own motion, inquire into any alleged failure of a
16 city officer or agency to comply with any provision of the charter.
17 If as a result of such inquiry, the president of the council
18 concludes that there is any substantial failure to comply with any
19 provision of the charter, he or she shall submit a preliminary
20 report documenting the conclusions of the inquiry to the officer
21 or officers and the head of each agency involved. Within a
22 reasonable time after submitting such preliminary report, the
23 president of the council shall issue a final report to the council,
24 mayor, and agency documenting the conclusions of the inquiry.

25 j. The president of the council shall have timely access to those
26 records and documents of city agencies which the president of the
27 council deems necessary to complete the investigations, inquiries
28 and reviews required by this section. If a city agency does not
29 comply with the president of the council's request for such records
30 and documents, the president of the council may request an
31 appropriate committee of the council to require the production of
32 such records and documents pursuant to section twenty-nine of the
33 charter. The provisions of this subdivision shall not apply to
34 those records and documents of city agencies for which a claim of

1 privilege may properly be raised or which are prepared or
2 maintained by the department of investigation for use in any
3 investigation authorized by chapter thirty-four of the charter.

4 k. If the president of the council receives a complaint alleging
5 conduct which may constitute a violation of criminal law or a
6 conflict of interest, he or she shall promptly refer the complaint
7 regarding criminal conduct to the department of investigation or,
8 as applicable, to the appropriate prosecuting attorney or other law
9 enforcement agency and shall refer the complaint regarding conflict
10 of interest to the conflicts of interest board. If during the
11 conduct of any investigation, inquiry, or review authorized by this
12 section, the president of the council discovers that the matter
13 involves conduct which may constitute a violation of criminal law
14 or a conflict of interest, he or she shall take no further action
15 but shall promptly refer the matter regarding criminal conduct to
16 the department of investigation or, as applicable, to the
17 appropriate prosecuting attorney or other law enforcement agency
18 and shall promptly refer the matter regarding conflict of interest
19 to the conflicts of interest board. Unless otherwise provided by
20 law, all complaints received and any investigative file prepared
21 or maintained by the president of the council, regarding matters
22 covered by this subdivision, shall be confidential.

23 l. Before making public any portion of any draft, preliminary
24 or final report relating to the operations or activities of a city
25 officer or agency, the president of the council shall send a copy
26 of the draft report to any officer, and to the head of any agency,
27 discussed in such report and provide the officer and agency, in
28 writing, with a reasonable deadline for their review and response.
29 The president of the council shall include in any report, or
30 portion thereof, which is made public a copy of all such officer
31 and agency responses.

32 m. The president of the council may hold public hearings in
33 the course of fulfilling the requirements of this section provided
34 that a complete transcript of any such hearings shall be made

1 available for public inspection free of charge within sixty days
2 after the hearing. The president of the council shall also provide
3 a copy of any requested pages of such transcript at a reasonable
4 fee to cover copying and, if relevant, mailing costs.

5 n. Not later than the thirty-first day of October of each year,
6 the president of the council shall present to the council a report
7 on the activities of the office during the preceding fiscal year.
8 The report shall include: (1) a statistical summary of the
9 complaints received during such fiscal year, categorized by agency,
10 type of complaint, agency response, mode of resolution, and such
11 other factors as the president of the council deems appropriate;
12 (2) an analysis of recurring complaints and the president of the
13 council's recommendations for administrative, legislative, or
14 budgetary actions to resolve the underlying problems causing the
15 complaints; (3) a summary of the findings and recommendations of
16 the agency program reviews conducted during the fiscal year and a
17 summary of the agency responses to such findings and
18 recommendations; (4) a summary of the charter requirements which,
19 in the opinion of the president of the council, are not being
20 implemented by the city agencies and officers subject to them,
21 including a description of the nature and extent of the failure to
22 comply and a summary of the responses of the agencies or officers
23 to the president of the council's conclusions; and (5) a summary
24 of improvements in charter compliance since the president of the
25 council's last annual report. The president of the council shall
26 include an assessment of the fiscal implications of any
27 recommendations presented in this report.

28 Sec. [24]25. Election; term; vacancies. a. The council members
29 shall be elected at the general election in the year nineteen
30 hundred seventy-seven and every fourth year thereafter[. The] and
31 the term of office of each council member shall commence on the
32 first day of January after the election and shall continue for four
33 years thereafter; provided however that the council members elected
34 at the general election in the year two thousand and one and at the

1 general election in every twentieth year thereafter shall serve for
2 a term of two years commencing on the first day of January after
3 such election; and provided further that an additional election of
4 council members shall be held at the general election in the year
5 two thousand and three and at the general election in every
6 twentieth year thereafter and that the members elected at each such
7 additional election shall serve for a term of two years beginning
8 on the first day of January after such election.

9 b. Any vacancy which may occur among the council members shall
10 be filled by popular election in the following manner.

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

22 2. If a vacancy occurs during the first three years of [the]
23 a four year term or in the first year of a two-year term, a general
24 election to fill the vacancy for the remainder of the unexpired
25 term shall be held in the year in which the vacancy occurs, unless
26 the vacancy occurs after the last day on which an occurring vacancy
27 may be filled at the general election in that same year with party
28 nominations of candidates for such election being made at a primary
29 election, as provided in section 6-116 of the election law. If
30 such a vacancy occurs in any year after such last day, it shall be
31 filled for the remainder of the unexpired term at the general
32 election in the following year provided, however, that no general
33 election to fill a vacancy shall be held in the last year of the
34 term, except as provided in paragraph nine of this subdivision.

1 Party nominations of candidates for a general election to fill a
2 vacancy for the remainder of the unexpired term shall be made at
3 a primary election, except as provided in paragraph five of this
4 subdivision.

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

16 4. If a vacancy occurs during the first three years of [the]
17 a four year term or the first year of a two-year term and on or
18 before the last day in the third year of such a four year term or
19 the first year of such a two-year term on which an occurring
20 vacancy may be filled for the remainder of the unexpired term at
21 a general election with party nominations of candidates for such
22 election being made at a primary election, as provided in section
23 6-116 of the election law, a special or general election to fill
24 the vacancy on an interim basis shall be held, unless the vacancy
25 occurs less than ninety days before the next primary election at
26 which party nominations for a general election to fill the vacancy
27 may be made and on or before the last day on which an occurring
28 vacancy may be filled for the remainder of the unexpired term at
29 the general election in the same year in which the vacancy occurs
30 with party nominations of candidates for such election being made
31 at a primary election, as provided on section 6-116 of the election
32 law.

33 5. If a vacancy occurs after the last day in the third year
34 of [the] a four-year term or the first year of a two-year term on

1 which an occurring vacancy may be filled for the remainder of the
2 unexpired term at a general election in each year with party
3 nominations of candidates for such election being made at a primary
4 election, as provided in section 6-116 of the election law, but not
5 less than ninety days before the date of the primary election in
6 the fourth year of such a four-year term or the second year of such
7 a two-year term, a special or general election to fill such vacancy
8 for the remainder of the unexpired term shall be held.

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

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

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

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

1 December in such year.

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

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

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

21 Sec. [25]26. Salaries. a. The salary of the president of the
22 council shall be one hundred five thousand dollars a year.

23 b. The salary of each council member shall be fifty-five
24 thousand dollars a year. In addition any council member, while
25 serving as a committee chairperson or other officer of the council,
26 may also be paid, in addition to such salary, an allowance fixed
27 by resolution, after a hearing, for the particular and additional
28 services pertaining to the additional duties of such position.

29 c. If, prior to the enactment of a local law increasing the
30 compensation of council members, the council establishes a
31 commission to study and make recommendations for changes in the
32 compensation levels of council members or if it otherwise causes
33 an analysis of such compensation levels to be made to assist it in
34 its consideration of such a local law, such study or analysis may

1 include an analysis of the benefits, detriments, costs and impacts
2 of placing restrictions on earned income derived by council members
3 from sources other than their council salary.

4 Sec. 27. Local laws and resolutions increasing or decreasing
5 salaries or allowances. No local law or resolution increasing or
6 decreasing the salaries or other allowances in accordance with
7 section twenty-six shall be adopted during the period between the
8 general election day and the thirty-first day of December, both
9 such days inclusive, in any year in which all of the council
10 members are elected.

11 Sec. [27]28. Powers of council.

12 a. [Any enumeration of powers in this charter shall not be
13 held to limit the legislative power of the council except as in
14 this charter specifically provided.] The council in addition to
15 all enumerated powers shall have power to adopt local laws [as to
16 it may seem meet] which it deems appropriate, which are not
17 inconsistent with the provisions of this charter or with the
18 constitution or laws of the United States or this state, for the
19 good rule and government of the city; for the order, protection and
20 government of persons and property; for the preservation of the
21 public health, comfort, peace and prosperity of the city and its
22 inhabitants; and to effectuate the purposes and provisions of this
23 charter or of the other laws relating to the city. The power of the
24 council to act with respect to matters set forth in sections one
25 hundred ninety-seven-c and two hundred of the charter shall be
26 limited by the provisions of section one hundred ninety seven-d.

27 b. The council shall have power to provide for the enforcement
28 of local laws by legal or equitable proceedings, to prescribe that
29 violations thereof shall constitute misdemeanors, offenses or
30 infractions and to provide for the punishment of violations thereof
31 by civil penalty, fine, forfeiture or imprisonment, or by two or
32 more of such punishments.

33 [b]c. In the event that there exists no other provision of law
34 for the filling of a vacancy in any elective office, resulting from

1 removal or suspension from such office, or the death, resignation
2 or inability of the incumbent to exercise the powers or to
3 discharge the duties of the office, the council by a majority vote
4 of all the council members shall elect a successor to fill the
5 vacancy in such office.

6 [c]d. All local laws shall be general, applying either
7 throughout the whole city or throughout specified portions thereof.

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

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

26 [f]g. The council shall hold a public hearing prior to the
27 consideration of any resolution requesting the state legislature,
28 in accordance with the provisions of section two of article nine
29 of the Constitution of the state of New York, to pass any bill,
30 the substance of which, if adopted by the council as a local law,
31 would require its approval by the electorate voting thereon at a
32 referendum. Notice of such public hearing shall be published in
33 the City Record for at least five days immediately preceding the
34 commencement of such a hearing.

1 Sec. [41]29 Power of investigation and oversight.

2 a. The council, acting as a committee of the whole, and each
3 [Each] standing or special committee of the council, through
4 hearings or otherwise:

5 1. may investigate any matters within its jurisdiction
6 relating to the property, affairs, or government of the city or of
7 any county within the city, or to any other powers of the council,
8 or to the effectuation of the purposes or provisions of this
9 charter or any laws relating to the city or to any county within
10 the city. [The council may from time to time appoint a special
11 committee to investigate any matters relating to the property,
12 affairs or government of the city or of any county within the
13 city.]

14 2. [Sec. 44. Council review of city agencies. The council,
15 through its standing committees and as an exercise of its
16 legislative authority,] shall review on a regular and continuous
17 basis the activities of the agencies of the city, including their
18 [the] service goals and performance and management efficiency [of
19 the agencies of the city]. Each unit of appropriation in the
20 adopted budget of the city shall be assigned to a standing
21 committee. Each standing committee of the council shall hold at
22 least one hearing each year relating to the activities of each of
23 the agencies under its jurisdiction.

24 b. Any [such] standing or special committee shall have power
25 to require the attendance and examine and take testimony under oath
26 of such persons as it may deem necessary and to require the
27 production of books, accounts, papers and other evidence relative
28 to the inquiry. Copies of all reports or studies received by the
29 council pursuant to section eleven hundred thirty-four and
30 subdivision c of section ninety-three shall be assigned to the
31 appropriate standing committees for review and action, as
32 necessary.

33 Sec.30. Council review of city procurement policies and
34 procedures.

1 a. The council shall periodically review all city procurement
2 policies and procedures, including:

3 1. the rules and procedures adopted by the procurement policy
4 board, all rules relating to the participation of minority and
5 women owned business enterprises in the city's procurement process
6 and the implementation of those rules and procedures by city
7 agencies;

8 2. patterns of contractual spending by city agencies,
9 including determinations of the need to contract made by agencies
10 in accordance with rules of the procurement policy board;

11 3. access to and fairness in city procurement opportunities,
12 the fair distribution of contract awards, and the fair employment
13 practices of city contractors;

14 4. procedures for evaluating contractor performance; and

15 5. procedures for declaring bidders not responsible and for
16 debaring contractors.

17 Sec. [46]31. Power of [Advice] advice and consent.
18 Appointment by the mayor of the commissioner of investigation and
19 of the members of the art commission, board of health (other than
20 the chairman), board of standards and appeals, city planning
21 commission (other than the chairman), civil service commission,
22 landmarks preservation commission, tax commission, taxi and
23 limousine commission and the public members of the environmental
24 control board shall be made with the advice and consent of the
25 council after a public hearing. Within thirty days after the first
26 stated meeting of the council after receipt of a nomination, the
27 council shall hold a hearing and act upon such nomination and in
28 the event it does not act within such period, the nomination shall
29 be deemed to be confirmed.

30 Sec. [26]32. Local laws. Except as otherwise provided by law,
31 all legislative action by the council shall be by local law. The
32 style of local law shall be "Be it enacted by the council as
33 follows." [Sec. 36. Local laws; subject and title.] Every local
34 law shall embrace only one subject. The title shall briefly refer

1 to the subject-matter.

2 Sec. 33. Local laws and budget modifications; fiscal impact
3 statements.

4 a. No proposed local law or budget modification shall be voted
5 on by a council committee or the council unless it is accompanied
6 by a fiscal impact statement containing the information set forth
7 in subdivision b of this section.

8 b. A fiscal impact statement shall indicate the fiscal year
9 in which the proposed law or modification would first become
10 effective and the first fiscal year in which the full fiscal impact
11 of the law or modification is expected to occur; and contain an
12 estimate of the fiscal impact of the law or modification on the
13 revenues and expenditures of the city during the fiscal year in
14 which the law or modification is to first become effective, during
15 the succeeding fiscal year, and during the first fiscal year in
16 which the full fiscal impact of the law or modification is expected
17 to occur.

18 c. All agency heads shall promptly provide to any council
19 committee any information that it requests to assist it in
20 preparing a fiscal impact statement.

21 d. Each fiscal impact statement shall identify the sources of
22 information used in its preparation.

23 e. If the estimate or estimates contained in the fiscal impact
24 statement are inaccurate, such inaccuracies shall not affect,
25 impair, or invalidate the local law or budget modification.

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

30 Sec. 35. Ayes and noes.

31 a. On the final passage of a local law or resolution the
32 question shall be taken by ayes and noes, which shall be entered
33 in the journal of proceedings. No such vote may be cast except by
34 a council member who is present and who casts his or her own vote

1 in the manner prescribed by the rules of the council.

2 b. All committee votes on proposed local laws or resolutions
3 shall be taken by ayes and noes, which shall be entered in a
4 committee report a copy of which shall be filed with the clerk or
5 other official specified by the council rules for this purpose and
6 which shall be available for public inspection. No such vote may
7 be cast except by a member of the committee who is present at the
8 meeting at which the vote is taken.

9 Sec. [37]36. Local laws; passage. No local law shall be passed
10 until it shall have been in its final form and upon the desks of
11 the council members at least seven calendar days, exclusive of
12 Sundays, prior to its final passage, unless the mayor shall have
13 certified as to the necessity for its immediate passage and such
14 local law be passed by the affirmative vote of two-thirds of all
15 the council members.

16 Sec. [38]37. Local laws; action by mayor.

17 a. Every local law certified by the clerk of the council,
18 after its passage by the council, shall be presented to the mayor
19 for approval.

20 b. If the mayor approves the local law, [he] the mayor shall
21 sign it and return it to the clerk; it shall then be deemed to have
22 been adopted. If [he] the mayor disapproves it, he or she shall
23 return it to the clerk with his or her objections stated in writing
24 and the clerk shall present the same with such objections to the
25 council at its next regular meeting and such objections shall be
26 entered in its journal. The council within thirty days thereafter
27 may reconsider the same. If after such reconsideration the votes
28 of two-thirds of all the council members be cast in favor of
29 repassing such local law, it shall be deemed adopted,
30 notwithstanding the objections of the mayor. Only one vote shall
31 be had upon such reconsideration. The vote shall be taken by ayes
32 and noes, which shall be entered in the journal. If within thirty
33 days after the local law shall have been presented to him or her,
34 the mayor shall neither approve nor return the local law to the

1 clerk with his or her objections, it shall be deemed to have been
2 adopted in like manner as if [he] the mayor had signed it. At any
3 time prior to the return of a local law by the mayor, the council
4 may recall the same and reconsider its action thereon.

5 Sec. [39]38. Local laws; referendum. A local law shall be
6 submitted for the approval of the electors at the next general
7 election held not less than sixty days after the adoption thereof,
8 and shall become operative as prescribed therein only when approved
9 at such election by the affirmative vote of a majority of the
10 qualified electors of the city voting upon the proposition, if it:

11 1. Abolishes or changes the form or composition of the council
12 [or the board of estimate] or increases or decreases the number of
13 votes any member is entitled to cast or reduces the number of
14 districts from which council members shall be elected.

15 2. Changes the veto power of the mayor.

16 3. Changes the law of succession to the mayoralty.

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

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

23 6. Creates a new elective office.

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

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

28 9. Reduces the salary or compensation of a city officer or
29 employee or increases [his] the hours of employment or changes
30 [his] the working conditions of such officer or employee if such
31 salary, compensation, hours or conditions have been fixed by a
32 state statute and approved by the vote of the qualified electors
33 of the city; and no provision effecting such reductions, increases
34 or changes contained in any local law or proposed new charter shall

1 become effective unless the definite question with respect to such
2 reductions, increases or changes shall be separately submitted and
3 approved by the affirmative vote of a majority of the qualified
4 electors voting thereon.

5 10. Provides a new charter for the city.

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

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

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

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

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

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

28 17. Repeals or amends this section or any of the following
29 sections of this charter; sections [forty-two] forty, one hundred
30 ninety-one, one hundred ninety-two, one hundred ninety-three, one
31 hundred ninety-nine, two hundred, two hundred twenty-five, eleven
32 hundred ten, eleven hundred eleven, eleven hundred fifteen, eleven
33 hundred sixteen, eleven hundred seventeen, eleven hundred eighteen,
34 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 insofar as they relate to elected officials and section twenty-six hundred two.

Sec. [40]39. 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. [42]40. 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

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

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

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

19 Sec. [43]41. Submission of local laws or amendments. A
20 proposition for the submission of a local law or an amendment to
21 this charter for the approval of the electors pursuant to this
22 charter shall contain the title of such local law or a brief
23 statement of the subject of such amendment. The city clerk with
24 the advice of the corporation counsel shall prepare an abstract of
25 such local law or amendment concisely stating the title or subject
26 and the purpose and effect thereof in clear language, and forthwith
27 shall transmit such proposition and such abstract to the election
28 officers charged with the duty of publishing the notice of and
29 furnishing the supplies for such election. A sufficient number of
30 copies of such abstract shall be printed, in such manner that the
31 abstract shall appear with the question to appear on the ballot in
32 bold type and separately from the text of the proposition, and
33 shall be delivered with the other election supplies and distributed
34 to the electors at the time of the registration of voters and at

1 the election. If there be more than one such proposition to be
2 voted upon at such election, each such proposition shall be
3 separately, consecutively and consistently numbered on the ballot
4 and on the abstract. In case of a conflict between two local laws
5 or two amendments adopted at the same election, the one receiving
6 the largest affirmative vote shall control.

7 Sec. [28]42. Meetings. The first meeting of the council in
8 each year shall be held on the first Wednesday after the first
9 Monday of January at noon. [The stated and occasional] All meetings
10 of the council shall be held as provided by its rules; provided,
11 however, that at least two stated meetings shall be held each
12 month, except in its discretion in July and August. A majority of
13 the council members shall constitute a quorum. At least thirty six
14 hours prior to a stated meeting of the council, or as soon as
15 practicable prior to a special meeting, the council shall publish
16 and make publicly available a proposed agenda for such meeting,
17 including a list of all proposed local laws or resolutions to be
18 considered at such meetings.

19 Sec. [29]43. Special meetings. The mayor may at any time call
20 special meetings of the council. He shall also call a special
21 meeting when a requisition for that purpose signed by five council
22 members has been presented to him. Not less than one day before
23 a special meeting is held, notice of the time thereof and of the
24 business proposed to be transacted, signed by the mayor, shall be
25 published in the City Record, and at the same time the city clerk
26 shall cause a copy of such notice to be left at or sent by post to
27 the usual place of abode or of business of each council member; but
28 want of service of a notice upon any council member shall not
29 affect the validity of the meeting. No business shall be
30 transacted at such special meetings other than that specified in
31 the notice relating thereto.

32 Sec. [30]44. [Vice-Chairman] Speaker. The council shall elect
33 from among [the council] its members a [vice-chairman,] speaker and
34 such other officers as it deems appropriate. [who shall temporarily

1 possess the powers and perform the duties of] During any period
2 when the president of the council [when the president is absent or
3 while the president] is acting as mayor, or when a vacancy [occurs]
4 exists in the office of the president, [and the vice-chairman
5 shall, during such times, retain the right to vote in the council,
6 except that during the time when filling a vacancy in the office
7 of the president the vice-chairman shall have the right to vote
8 only in case of a tie, and] the speaker shall be a member of every
9 board of which the president of the council is a member by virtue
10 of his or her office. [, except that such vice-chairman shall not
11 be a member of the board of estimate unless the president of the
12 council is acting as mayor under subdivision b of section ten or
13 in case of the failure of a person elected as president of the
14 council to qualify or a vacancy in the office caused by the
15 president's resignation, removal, death or permanent inability to
16 discharge powers and duties. In any such event, the vice-chairman
17 shall act as president of the council with all powers and duties
18 of said office.]

19 Sec. [31]45. Sergeant-at-arms; procedure; expulsion of members.
20 The council may elect a sergeant-at-arms and such research,
21 drafting, clerical and other assistants as are needful to its
22 purposes, within the appropriation provided therefor. [The council
23 shall determine the rules of its own proceedings at the first
24 organizational meeting of the council in each year and shall file
25 a copy with the city clerk; it] It may appoint committees and shall
26 appoint a finance committee properly staffed to consider budgetary
27 and related matters and a land use committee consisting of at least
28 one council member from each borough; shall be the judge of the
29 election returns and qualifications of its own members, subject,
30 however, to review by any court of competent jurisdiction; shall
31 keep a public journal of its proceedings; shall make a complete
32 transcript of each of its meetings and committee hearings available
33 for public inspection and review within a reasonable time following
34 such meeting or hearing and provide a copy of any requested pages

1 of such transcript at a reasonable fee to cover copying and, if
2 relevant, mailing costs; shall sit with open doors; shall have
3 authority to compel the attendance of absent members and to punish
4 its members for disorderly behavior, and to expel any member, after
5 charges and a hearing, with the concurrence of two-thirds of all
6 the council members.

7 Sec. 46. Rules of the council. The council shall determine the
8 rules of its own proceedings at the first stated meeting of the
9 council in each year and shall file a copy with the city clerk.
10 Such rules shall include, but not be limited to, rules that the
11 chairs of all standing committees be elected by the council as a
12 whole; that the first-named sponsor of a proposed local law or
13 resolution be able to require a committee vote on such proposed
14 local law or resolution; that a majority of the members of the
15 council be able to discharge a proposed local law or resolution
16 from committee; that committees shall provide reasonable advance
17 notice of committee meetings to the public; that all committee
18 votes be recorded and made available to the public.

19 Sec. [45]47. Legislative professional staff. Within
20 appropriations for such purpose, the council shall establish a
21 structure within the City Council and retain professional staff to
22 review and analyze proposed budgets and departmental estimates,
23 requests for new taxes or changes in taxes, budget modifications,
24 capital borrowings and mayoral management reports. Such staff shall
25 assist the committees of the council and Council Members in their
26 analysis of proposed legislation and in review of the performance
27 and management of city agencies.

28 Sec. [32]48. City clerk; duties. a. The council shall appoint
29 a clerk, who shall perform such duties as may be prescribed by law.
30 The clerk so appointed shall be the city clerk and the clerk of the
31 council, and shall hold [his] office for six years and until [his]
32 such clerk's successor shall be appointed and has qualified. The
33 city clerk shall have charge of all the papers and documents of the
34 city, except such as are by law committed to the keeping of the

1 several departments or of other officers. [He] The city clerk
2 shall keep the record of the proceedings of the council[. He] and
3 shall also keep a separate record of all the local laws of the city
4 in a book to be provided for that purpose, with proper indices,
5 which book shall be deemed a public record of such local laws, and
6 each local law shall be attested by said clerk. [He shall also keep
7 a separate and public record which shall be known as the "street
8 franchise book." In such record he shall forthwith file a copy
9 duly certified by or under the authority of the board of estimate
10 granting, making or adopting the same, of every grant, franchise,
11 contract or resolution in the nature of a franchise which shall
12 hereafter be granted, made or adopted by said board, together with
13 copies of all formalities of the execution or verification thereof,
14 and shall forthwith, after so filing the same, transmit to the
15 board a copy of such record, with a minute of the date and volume
16 thereof, duly certified by him.] Copies of all papers duly filed
17 in [his] the office of the city clerk, and transcripts thereof and
18 of the records of proceedings of the council and copies of the
19 laws, ordinances and local laws of the city, certified by [him] the
20 city clerk under the corporate seal of the city, shall be
21 admissible in evidence in all courts and places in the same manner
22 and for the same purposes as papers or documents similarly
23 authenticated by the clerk of a county. The city clerk may be
24 removed on charges by a two-third vote of all the council members,
25 subject, however, to judicial review. [He] The city clerk shall
26 collect such fees as shall be fixed by law.

27 b. It shall be the duty of the city clerk to keep open for
28 inspection at all reasonable times the records and minutes of the
29 proceedings of the council. [He] The city clerk shall keep the
30 seal of the city, and his or her signature shall be necessary to
31 all grants and other documents, except as otherwise provided by
32 law. In the absence of the clerk by sickness or otherwise, [his]
33 the first deputy clerk shall be vested with and possessed of all
34 the rights and powers and be charged with all the duties by law

1 imposed upon the clerk. In the absence of the first deputy clerk,
2 the city clerk by an instrument in writing may designate one of his
3 or her clerks, who shall be vested with and possessed of all the
4 rights and powers and charged with all the duties by law imposed
5 upon said clerk. The signature of the person so designated shall
6 be in place of and of the same force and effect as the signature
7 of the city clerk. Such designation shall be made in triplicate
8 and shall be duly filed and remain of record in the city clerk's
9 office and in the offices of the mayor and of the comptroller, but
10 the designation shall be for a period not exceeding three months
11 and shall not extend beyond the city clerk's term of office and
12 shall be at all times revocable by the city clerk.

1 CHAPTER 2-A
2 DISTRICTING COMMISSION
3

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

6 a. There shall be a districting commission consisting of [nine]
7 fifteen members appointed [by the mayor] as provided in this
8 section. [The two political parties receiving the largest number
9 of votes in the most recent mayoral election shall each have its
10 city council delegation submit a list of ten nominations to the
11 mayor. If such a party does not have any members sitting on the
12 city council,]

13 1. The council delegation of the political party which has
14 the largest delegation in the council shall, by majority vote,
15 appoint five members of the commission, no more than one of whom
16 may be a resident of the same borough.

17 2. The council delegation of the political party which has
18 the second largest delegation in the council, shall, by majority
19 vote, appoint three members of the commission, no more than one of
20 whom may be a resident of the same borough.

21 3. If only one political party has a council delegation, then
22 the chairpersons of [its] the county committees of the political
23 party with no council delegation which, at the time of the general
24 election last preceding the time at which such appointments are
25 required to be made, had the largest number of enrolled voters in
26 the city, shall each submit [two] three nominations to the mayor,
27 in order to provide a list of [ten] fifteen nominations from that
28 party. The mayor shall appoint [two] three members from [each of
29 the two lists] such list, no more than one of whom may be a
30 resident of the same borough.

31 4. The mayor shall appoint [five] seven additional members,
32 but the party enrollment, if any, of these additional members [no
33 more than two may be enrolled in the same] shall be such that
34 individuals enrolled in a single political party shall not be a

majority of the total number of members of the commission.

5. Officers and employees of the city or any city agency, lobbyists required to file a statement of registration under federal, state or local law, the employees of such lobbyists, federal, state and local elected officials, and officers of any political party shall not be eligible to be members of the commission.

6. The [mayor] members of the commission shall [designate] elect one of the [nine] fifteen members to serve as the chair of the commission.

7. For purposes of this section, a member of the council who was elected to the council upon the nomination of more than one political party shall be considered to be a member of the council delegation of the political party on whose ballot line he or she received the largest number of votes in his or her last election to the council.

b. 1. The commission shall have among its members (a) at least one resident of each borough, and (b) members of the racial and language minority groups in New York City which are protected by the United States voting rights act of nineteen hundred sixty-five, as amended, in proportion, as close as practicable, to their population in the city.

2. The mayor, no later than twenty-two months before the general election of the council to be held in the year nineteen hundred and ninety-three, and every ten years thereafter, shall convene one or more meetings of all of the appointing and recommending authorities specified in subdivision a of this section for the purpose of establishing a screening and selection process for ensuring that the racial and language minority groups in New York City which are protected by the United States voting rights act of nineteen hundred sixty-five, as amended, will be fairly represented on the commission.

c. Each council delegation authorized by subdivision a of this section to make appointments to the commission shall make such

1 appointments no earlier than one year and eight months before, and
2 no later than one year and six months before, the general election
3 of the council to be held in the year nineteen hundred ninety-
4 three, and every ten years thereafter. In any case in which the
5 chairpersons of the county committees of a political party are
6 authorized to submit nominations to the mayor, such nominations
7 shall be submitted no earlier than one year and eight months
8 before, and no later than one year and six months before, the
9 general election of the council to be held in the year nineteen
10 hundred ninety-three, and every ten years thereafter. The mayor
11 shall [appoint] make appointments to the commission after each
12 council delegation authorized to make appointments has done so but
13 no later than one year and five months before [the first] such a
14 general election of the [city] council [after each federal
15 decennial census]. The commission's term shall end upon adoption
16 of a districting plan, as set forth in section fifty-one.

17 d. In the event of a vacancy by death, resignation or
18 otherwise, [the mayor shall appoint] a new member enrolled in the
19 same political party from which his or her predecessor was selected
20 shall be appointed in the same manner as the member whose departure
21 from the commission created the vacancy to serve the balance of
22 the term remaining.

23 e. No member of the districting commission shall be removed
24 from office [by the mayor] except by the person or persons who
25 appointed such member and only for cause and upon notice and
26 hearing.

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

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

1 Sec. 51. Powers and duties of the [Commission] commission;
2 hearings; submissions and approval of plan.

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

8 b. The commission shall hold one or more public hearings not
9 less than one month before it submits [the] its plan to the city
10 council, in accordance with subdivision c of this section. The
11 commission shall make its plan available to the public for
12 inspection and comment not less than one month before [its] the
13 first such public hearing.

14 c. The commission shall submit its plan to the city council not
15 less than one year before the [first] general election of the city
16 council [after each decennial census] to be held in the year
17 nineteen hundred ninety-three and every ten years thereafter.

18 d. The plan submitted in accordance with subdivision c of this
19 section shall be deemed adopted [by the city council] unless
20 [disapproved], within three weeks, the council by the vote of [the]
21 a majority of all [the] of its members [of the city council]
22 adopts a resolution objecting to such plan[. If the city council
23 fails to adopt the plan, it shall return] and returns the plan to
24 the commission with [its] such resolution and a statement of its
25 objections, and with copies of the written objections of [the] any
26 individual members of the council who have submitted objections to
27 the speaker prior to such date. Any objections from individual
28 members submitted to the speaker by such date shall be transmitted
29 to the districting commission whether or not the council objects
30 to such districting plan.

31 e. Upon the [rejection of its plan] receipt of any such
32 resolution and objections, the commission shall prepare a revised
33 plan and shall [submit such revised plan to the city council], no
34 later than [nine] ten months before [the first] such general

1 election of the city council [after each decennial census. Such
2 revised plan shall be deemed adopted by the city council unless
3 disapproved within two weeks by the vote of two thirds of all the
4 members of the city council and unless, by a vote of two thirds of
5 all of its members, the city council votes to file a petition in
6 the Supreme Court, New York County, for a determination that the
7 plan fails to meet the requirements of the Charter. The city
8 council shall file its petition no later than ten days after its
9 disapproval of the plan. Upon a final determination, including a
10 final determination upon appeal, if any, that the plan meets the
11 requirements of the Charter, the plan shall be deemed adopted by
12 the city council and the commission shall deliver the plan to the
13 city clerk.

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

15 g. If in any year population figures are not available at least
16 one year and five months before the first general election
17 following the decennial census, the city council may by local law
18 shorten the time periods providing for districting commission
19 action in subsections (b), (c), (d), and (e) of this section.],
20 make such plan available to the council and the public for
21 inspection and comment. The commission shall hold public hearings
22 and seek public comment on such revised plan.

23 f. Following its consideration of the comments received
24 pursuant to subdivision e of this section, the commission shall,
25 no later than eight months before such general election of the
26 council, prepare and submit a final plan for the redistricting of
27 the council and a statement signed by at least nine members of the
28 commission certifying that, within the constraint of subdivision
29 a of section fifty-two, the criteria set forth in the other
30 subdivisions of such section have been applied in the order in
31 which they are listed and that such criteria have been implemented,
32 in such order, to the maximum extent practicable. Such
33 certification shall also set forth the manner in which the
34 commission implemented the requirements of subdivision b of section

1 fifty-two. Such plan shall be deemed adopted upon the commission's
2 filing, with the city clerk, of such plan and such certification.

3 Sec. 52. District plan; criteria. 1. In the preparation of
4 its plan for dividing the city into districts for the election of
5 council members, the commission shall apply the [following]
6 criteria set forth in the following paragraphs [To] to the maximum
7 extent practicable[, the criteria]. The following paragraphs shall
8 be applied and given priority in the order in which they are
9 listed.

10 a. The difference in population between the least populous and
11 the most populous districts shall not exceed ten percentum (10%)
12 of the average population for all districts, according to figures
13 available from the most recent decennial census. Any such
14 differences in population must be justified by the other criteria
15 set forth in this section.

16 b. Such districting plan shall be established in a manner that
17 ensures the fair and effective representation of the racial and
18 language minority groups in New York City which are protected by
19 the United States voting rights act of nineteen hundred sixty-five,
20 as amended.

21 [e]c. [To the extent practicable, district] District lines shall
22 keep intact neighborhoods and communities with established ties of
23 common interest and association, whether historical, racial,
24 economic, ethnic, [or] religious or other.

25 [c]d. Each district shall be compact[. To the extent
26 practicable, each district] and shall be no more than twice as long
27 as it is wide.

28 [d]e. [To the extent practicable, a] A district shall not cross
29 borough or county boundaries.

30 f. Districts shall not be drawn for the purpose of separating
31 geographic concentrations of voters enrolled in the same political
32 party into two or more districts in order to diminish the effective
33 representation of such voters.

1 g. The districting plan shall be established in a manner that
2 minimizes the sum of the length of the boundaries of all of the
3 districts included in the plan.

4
5 [b] 2. Each district shall be contiguous, and whenever a part
6 of a district is separated from the rest of the district by a body
7 of water, there shall be a connection by a bridge, a tunnel, a
8 tramway or by regular ferry service.

9
10 3. If any district includes territory in two boroughs, then
11 no other district may also include territory from the same two
12 boroughs.

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

1 all votes taken on any resolution or other action of the board, the
2 text of any resolution as passed by the board, a record of any
3 other action taken by the board in such form as may be required by
4 the board and such other matters as may be required by the board.

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

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

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

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

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

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

32 3. Hold public hearings on any such matter of city policy or
33 other matters within the scope of its responsibilities whenever
34 requested by the mayor or required to do so by this charter or

1 other provision of law or whenever in its judgment the public
2 interest will be benefited thereby.

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

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

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

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

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

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

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

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

1 CHAPTER 3
2 BUDGET PROCESS
3

4 Sec. 55. Budgetary responsibilities of the mayor, the director of
5 management and budget and the comptroller.
6

7 a. The mayor shall each year, in accordance with the provisions
8 of this chapter, prepare and submit to the council a preliminary
9 budget and an executive budget each of which shall present a
10 complete financial plan for the city and its agencies for the
11 ensuing fiscal year, setting forth proposed operating and capital
12 expenditures, proposed interfund transfers, anticipated revenues
13 and any other anticipated sources and uses of funds. Each such
14 budget shall consist of three parts: the expense budget, which
15 shall set forth proposed appropriations for the operating expenses
16 of the city including debt service; the capital budget and
17 program, which shall set forth proposed appropriations for capital
18 projects for the ensuing fiscal year and the three succeeding
19 fiscal years; and the revenue budget, which shall set forth the
20 estimated revenues and receipts of the city.
21

22 [Sec. 111. Office of management and budget. a.] b. There shall
23 be an office of management and budget in the executive office of
24 the mayor, the head of which shall be director of management and
25 budget who shall be appointed by the mayor. [b.] It shall be the
26 duty of the director to [prepare each year an executive budget for
27 the ensuing fiscal year and to] perform all such duties in regard
28 [thereto] to the budget and related matters as the mayor may
29 direct. [He] The director of management and budget shall have the
30 power, personally or [by his] through representatives, to survey
31 each agency for the purpose of ascertaining its budgetary
32 requirements. [He] The director may require any agency, or any
33 officer or employee, to furnish data and information and to answer
34 inquiries pertinent [to such survey] to the exercise of any of the

1 director's duties in regard to the budget and related matters.

2
3 c. The comptroller shall produce timely analyses of the
4 preliminary and executive budgets including evaluations of the
5 recommendations of the borough presidents, as well as those of the
6 mayor and of the assumptions and methodologies used by the mayor
7 in making the revenue estimates contained in such budgets.

8
9 Sec. [110.] 57. Fiscal year. The fiscal year of the city shall
10 commence on the first day of July in each year and shall terminate
11 at midnight on the ensuing thirtieth day of June.

12
13 Sec. 58. Spending pursuant to appropriations.

14
15 a. No money, except for grants or gifts from private entities,
16 shall be paid from any fund under the management of the city, or
17 any fund under the management of any agency or officer of the city,
18 or any other entity the majority of the members of whose board are
19 city officials or are appointed directly or indirectly by city
20 officials, except in pursuance of an appropriation by the council
21 or other specific legal authorization provided, however, that

22 (1) if at any time the council shall fail to make an
23 appropriation for the payment of debt service on any debts of the
24 city as they fall due, or for the payments to the several sinking
25 funds, the commissioner of finance shall set apart, from the first
26 revenues thereafter received applicable to the general fund of the
27 city, a sum sufficient to pay such amounts and shall so apply such
28 sum; and

29 (2) money, the ownership and equitable title of which belongs
30 to an individual, corporation, organization or government other
31 than the city and which is being held by any agency or officer of
32 the city pending transfer of such money to such individual,
33 corporation, organization or government in accordance with the
34 terms and conditions pursuant to which it was placed in the custody

1 of such agency or officer, may be transferred to such individual,
2 corporation, organization or government by such agency or officer
3 without an appropriation by law provided such transfers are made
4 in accordance with such terms and conditions; and

5 (3) money or other financial resources may only be
6 transferred from one fund to another without specific statutory
7 authorization for such a transfer if that money or those other
8 financial resources are being loaned temporarily to such other
9 fund and an accurate accounting and reporting of the balance of
10 financial resources in each fund and of the amount due by each fund
11 to each other fund is made at the end of each month; and

12 (4) grants or gifts from private entities exempt from the
13 requirements of this section, and expenditures of such funds, shall
14 be subject to disclosure, at least annually, by the responsible
15 agency, officer or entity in a form and containing such information
16 as the mayor shall prescribe for this purpose by rule.

17
18 b. The head of each agency of the city, and each entity the
19 majority of the members of whose board are city officials or
20 individuals appointed directly or indirectly by city officials,
21 shall, on or before the fifteenth day of October in each year,
22 submit to the mayor and the council, in such form as the mayor
23 shall prescribe, a statement of the sources, amounts and
24 disposition of all money received by such agency or entity, or by
25 a unit or officer of such agency during the preceding fiscal year,
26 other than (i) money appropriated for the use of such agency or
27 entity by the council, or (ii) money paid by such agency or entity
28 into the city treasury and reported in the annual report of the
29 comptroller for such fiscal year. The mayor shall ensure that
30 copies of such statements are available for public inspection, and
31 shall designate a city officer to maintain copies of such
32 statements for such purpose.

1 Sec. 59. Draft ten-year capital strategy. Not later than the
2 first day of November in each even-numbered year, the director of
3 management and budget and the director of city planning shall
4 jointly submit to the mayor, the council, the borough presidents
5 and the city planning commission a draft ten-year capital strategy
6 prepared in accordance with the provisions of section two hundred
7 fifteen.

8
9 Sec. [129.] 60. Revenue [estimation report] reports of the
10 comptroller and mayor.

11
12 a. Not later than the [thirtieth] thirty-first day of [September]
13 October, the comptroller shall certify to the mayor the actual
14 revenues for the previous fiscal year.

15
16 b. Not later than the fifteenth day of [October] November, the
17 mayor shall issue a report comparing actual revenues to estimated
18 revenues in the budget as adopted for [such] the previous fiscal
19 year, accompanied by a detailed listing and an explanation of any
20 variances between actual revenues and estimated revenues. This
21 report shall be published in the City Record.

22
23 Sec. 61. Community board budget priorities.

24
25 a. Not later than thirty days prior to the date set by mayor in
26 accordance with section sixty-two of this chapter for the
27 submission of departmental estimates, each community board shall
28 submit to the mayor and the appropriate borough president a
29 statement of its expense budget priorities and a statement of its
30 capital budget priorities for the ensuing fiscal year, in such form
31 and containing such information as the mayor shall prescribe. The
32 form prescribed by the mayor shall include (i) a method by which
33 continuing support may be expressed by a community board for
34 existing programs and capital projects and (ii) reasonable

1 limitations on the total number of expense and capital budget
2 priorities which a community board may propose. The mayor shall
3 provide each community board with reasonable notice of the date set
4 for the submission of such priorities. The mayor shall ensure that
5 representatives of each agency that delivers local services, or is
6 responsible for capital projects, within any community district
7 shall be available for consultation with the community board for
8 such community district in the preparation of its statement of
9 budget priorities.

10
11 b. Each community board in the preparation of its statement of
12 budget priorities, shall, upon adequate public notice, hold a
13 public hearing at which residents of the community district and
14 other interested individuals may express their opinions as to the
15 service and capital needs of the district.

16
17 c. Copies of each statement of budget priorities shall be provided
18 expeditiously by the mayor to the city planning commission and the
19 head of each agency affected.

20
21 Sec. 62. Departmental estimates.

22
23 a. Not later than such date as the mayor may direct, the head of
24 each agency shall submit to the mayor, in such form and containing
25 such information as the mayor shall require, a detailed estimate
26 of the expense budget requirements of such agency for the ensuing
27 fiscal year and capital budget and program requirements for the
28 ensuing fiscal year and three succeeding fiscal years, prepared in
29 accordance with the provisions of section one hundred and section
30 two hundred twelve, respectively, and a detailed estimate of all
31 receipts, from sources other than taxes, which the agency
32 anticipates collecting during the ensuing fiscal year. Such
33 estimates shall be known collectively as departmental estimates and
34 shall be known respectively as expense budget departmental

1 estimates, capital budget and program departmental estimates and
2 revenue budget departmental estimates. Copies of such departmental
3 estimates shall be provided expeditiously by the mayor to each
4 borough president.

5
6 b. In the preparation of such departmental estimates, the head of
7 each agency that delivers local services, or is responsible for
8 capital projects, within any community district shall (1) consult
9 with the community board for such community district through
10 appropriate officers and employees of the agency, and (2) consider
11 the community board statements of expense and capital budget
12 priorities submitted in accordance with section sixty-one of this
13 chapter.

14
15 Sec. [212.] 63. Report of the comptroller on capital debt and
16 obligations. Not later than the first day of December in each
17 year, the comptroller shall submit to the mayor, [the board of
18 estimate,] the council and the city planning commission a report,
19 which shall be published forthwith in the City Record, setting
20 forth the amount and nature of all obligations authorized on
21 account of each pending capital project and the liabilities
22 incurred for each such project outstanding on the first day of July
23 and setting forth and commenting in detail upon the city's
24 financial condition and advising as to the maximum amount and
25 nature of debt and reserves which in [his] the comptroller's
26 opinion the city may soundly incur for capital projects during each
27 of the four succeeding fiscal years, and containing such other
28 information relevant to this subject as may be required by local
29 law, by the mayor by executive order, or which the comptroller
30 deems necessary and relevant.

31
32 Sec. 64. Report of the comptroller on the state of the city's
33 finances. Not later than the fifteenth day of December, the
34 comptroller shall report to the council, at a stated meeting of the

1 council, on the state of the city's economy and finances, including
2 evaluations of the city's financial plan, as most recently updated
3 by the mayor in accordance with section eighty-five, and the
4 assumptions on which the revenue and expenditure forecasts
5 contained therein are based.

6
7 Sec. [214-a.

8 d.] 65. City planning commission hearing and statement on the
9 draft ten-year capital strategy. Not later than the [fifteenth day
10 of March] sixteenth day of January in each odd numbered year, the
11 city planning commission shall submit to the mayor, [board of
12 estimate,] the borough presidents and the council a report
13 containing [a statement of the city's capital needs and priorities,
14 including recommended dollar allocations for general categories of
15 programs and on explanation of recommended priorities among such
16 categories of programs and their likely impact on the orderly
17 growth and development of the city] its comments on the draft ten-
18 year capital strategy submitted in accordance with section fifty-
19 nine of this chapter, including such recommendations as it deems
20 appropriate. The city planning commission, in the preparation of
21 such report, shall, upon adequate public notice, hold a public
22 hearing at which interested organizations and individuals may
23 express their opinions regarding the draft ten-year capital
24 strategy.

25
26 Sec. [213.] 66. [Certificate] Preliminary certificate of the mayor
27 on capital debt and obligations. No later than the [fifteenth]
28 sixteenth day of January, the mayor shall [issue] submit to the
29 council, the comptroller, the borough presidents and the city
30 planning commission and publish [his] a preliminary [statement]
31 certificate [and no later than the twenty-sixth day of April the
32 mayor shall issue and publish his certificate as to] setting forth
33 the maximum amount of debt and reserves which, in [his] the mayor's
34 opinion, the city may soundly incur for capital projects [and all

1 projects to be financed by capital debt] during the ensuing fiscal
2 year and during each of the following three fiscal years, and the
3 maximum amount of appropriations and expenditures for capital
4 projects which the city, given such maximum amount of debt and
5 reserves, may soundly make during each such fiscal year [with any
6 recommendations he may wish to make as to capital projects to be
7 included in the capital budget]. At any time up to the submission
8 of [his] the executive capital budget to [the board of estimate and
9 to] the council, the mayor may amend such preliminary [statement]
10 certificate. Any such amendments shall be submitted to the council,
11 the comptroller, the borough presidents and the city planning
12 commission, and published forthwith in the City Record.

13
14 Sec. 67. Submission of the preliminary budget. Not later than
15 the sixteenth day of January, the mayor shall submit to the council
16 and publish a preliminary budget for the ensuing fiscal year.
17 Copies of such budget shall be provided to the council, borough
18 presidents, each community board and borough board, the city
19 planning commission, and the department of city planning.

20
21 Sec. 68. Ten-year capital strategy. Not later than the twenty-
22 sixth day of April in each odd-numbered year, the mayor shall
23 issue and publish a ten-year capital strategy, prepared in
24 accordance with the provisions of section two hundred fifteen of
25 this charter.

26
27 [Sec. 112-a.

28 b.] 69. Community board review of preliminary budget. Not later
29 than the fifteenth day of February, each community board shall [(1)
30 hold a public hearing on the preliminary budget statements with
31 respect to the service needs and priorities of the community
32 district and (2)] submit [a statement of its budget priorities and
33 recommendations] to the mayor, [board of estimate,] the council,
34 director of management and budget, the appropriate borough

1 president and [the respective borough board] each member of the
2 borough board of the borough in which the community board is
3 located, a statement containing the community board's assessment
4 of the responsiveness of the preliminary budget to its statement
5 of budget priorities submitted pursuant to section sixty-one and
6 any other comments or recommendations which it wishes to make in
7 regard to the preliminary budget.

8
9 [Sec. 214-a.

10 b. Not later than the fifteenth day of February each community
11 board shall (1) hold a public hearing on the preliminary budget
12 statements with respect to the capital needs and priorities of the
13 community district, and (2) submit a statement of its budget
14 priorities and capital improvement needs for the ensuing fiscal
15 year and the three succeeding fiscal years to the mayor, board of
16 estimate, council, city planning commission, department of city
17 planning, and the respective borough board.]

18
19 Sec. [113.] 70. Statement of debt service by the comptroller.

20
21 [a.] Not later than the [fifteenth day of February] first day of
22 March in each year, the comptroller shall submit to the mayor[, to
23 the board of estimate] and to the council a certified statement
24 which shall be published forthwith in the City Record and which
25 shall contain[:
26

27 1. A] a schedule of the appropriations required during the
28 ensuing fiscal year for debt service, including appropriations to
29 the several sinking funds as required by law[.], and

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

33 3. Such] such other information as may be required by law.
34

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

- 4 1. An itemized statement of all taxes due and uncollected.
- 5 2. Such other information as may be requested by the mayor,
6 the board of estimate or the council.]

7
8 Sec. [114.] 71. Statement of assessed valuation, and statement of
9 taxes due and uncollected by the commissioner of finance.

10
11 Not later than the fifteenth day of February in each year, the
12 commissioner of finance shall submit to the mayor[, to the board
13 of estimate] and to the council:

14
15 a. a tentative estimate of the assessed valuation of real property
16 subject to taxation for the ensuing fiscal year, which shall be
17 published forthwith in the City Record[.];and

18
19 b. a certified statement showing as of a specified date the amount
20 of all real property taxes due, the amount expected to be received
21 and the amount actually uncollected by such categories and
22 classifications as will facilitate understanding of such
23 information.

24
25 Sec. 71-a. Tax Benefit Report.

26
27 Not later than the fifteenth day of February the mayor shall
28 submit to the council a tax benefit report which shall include:

29 a. a listing of all exclusions, exemptions, abatements, credits
30 or other benefits allowed against city tax liability, against the
31 base or the rate of, or the amount due pursuant to, each city tax,
32 provided however that such listing need not include any benefits
33 which are applicable without any city action to such city tax
34 because they are available in regard to a federal or state tax on

1 which such city tax is based; and
2 b. a description of each tax benefit included in such listing,
3 providing the following information:

4 1. the legal authority for such tax benefit;

5 2. the objectives of, and eligibility requirements for,
6 such tax benefit;

7 3. such data and supporting documentation as are
8 available and meaningful regarding the number and kind of taxpayers
9 using benefits pursuant to such tax benefit and the total amount
10 of benefits used pursuant to such tax benefit, by taxable and/or
11 fiscal year;

12 4. for each tax benefit pursuant to which a taxpayer is
13 allowed to claim benefits in one year and carry them over for use
14 in one or more later years, the number and kind of taxpayers
15 carrying forward benefits pursuant to such tax benefit and the
16 total amount of benefits carried forward, by taxable and/or fiscal
17 year;

18 5. for nineteen hundred ninety and each year thereafter
19 for which the information required by paragraphs three and four are
20 not available, the reasons therefor, the steps being taken to
21 provide such information as soon as possible, and the first year
22 for which such information will be available;

23 6. such data and supporting documentation as are
24 available and meaningful regarding the economic and social impact
25 and other consequences of such tax benefit; and

26 7. a listing and summary of all evaluations and audits
27 of such tax benefit issued during the previous two years.

28
29 Sec. [112-a.

30 c.] 72. Borough board preliminary budget hearings. Not later than
31 the twenty-fifth day of February each borough board shall submit
32 a comprehensive statement on the budget priorities of the borough
33 to the mayor, [board of estimate,] council, and director of
34 management and budget. Each borough board, in the preparation of

1 this statement, shall, upon adequate public notice, hold one or
2 more public hearings on the preliminary budget, to obtain the views
3 and recommendations of the community boards within the borough,
4 residents of the borough and others with substantial interests in
5 the borough, on the proposals contained in the preliminary budget
6 and on the capital and service needs of the borough. Officers of
7 agencies, when requested by the borough board, shall appear and be
8 heard.

9
10 [Sec 214-a.

11 c. Not later than the twenty-fifth day of February, each borough
12 board shall submit a comprehensive statement of the budget
13 priorities and needs of the borough for the fiscal year and three
14 succeeding years to the mayor, board of estimate, council, city
15 planning commission, and department of city planning.]

16
17 Sec. 73. The operating budget of the council. Not later than the
18 tenth day of March, the council shall approve and submit to the
19 mayor detailed itemized estimates of the financial needs of the
20 council for the ensuing fiscal year. Such estimates shall be
21 comprised of at least one personal service unit of appropriation
22 and at least one other than personal service unit of appropriation
23 for each standing committee of the council and for each
24 organizational unit established pursuant to section forty-five of
25 this charter. The mayor shall include such estimates in the
26 executive budget without revision, but with such recommendations
27 as the mayor may deem proper.

28
29 Sec. 74. Preparation of the executive budget. In preparing the
30 executive budget to be submitted in accordance with section
31 seventy-seven, the mayor shall consult with the borough presidents.

32
33 Sec. 75. Borough president recommendations to the mayor.
34

1 a. Not later than the tenth day of March, each borough president
2 shall submit to the mayor and council, in such form and containing
3 such information as the mayor shall prescribe, any proposed
4 modifications of the preliminary budget which the borough president
5 recommends in accordance with the provisions of subdivision b of
6 this section.

7
8 b. Each borough president shall propose such modifications to the
9 preliminary budget as the borough president deems to be in the best
10 interest of the borough, taking into consideration community and
11 borough board priorities and testimony received at public hearings
12 held pursuant to section seventy-two of this chapter. The net
13 effects of any such modifications recommended by the borough
14 president may not result in an increase in the total amount of
15 appropriations proposed in the preliminary budget. If increases
16 in appropriations within the borough are recommended, offsetting
17 reductions in other appropriations within the borough must also be
18 recommended. Each proposed increase or reduction must be stated
19 separately and distinctly and refer each to a single object or
20 purpose.

21
22 Sec. [216.] 76. Council[Preliminary capital] preliminary budget
23 hearings and recommendations.

24
25 a. Not later than the twenty-fifth day of March, [the board of
26 estimate and] the council, through its committees, shall hold
27 [joint] hearings on the program objectives and fiscal implications
28 of the preliminary budget [statements], the statements of budget
29 priorities of the community boards and[,] borough boards, the
30 draft ten-year capital strategy and the report of the city planning
31 commission on [the long range capital needs of the city,] such
32 strategy, the borough presidents recommendations submitted pursuant
33 to section seventy-five to the extent that such recommendations are
34 available at the time of these hearings, and the status of capital

1 projects and expense appropriations previously authorized. The
2 public and representatives of community boards and borough boards
3 may attend and be heard in regard to all such matters.
4 Representatives of the director of management and budget and the
5 director of city planning may attend the hearings and ask
6 questions. Officials of agencies, when requested by the [board of
7 estimate or] committees of the council, shall appear and be heard.
8 [The public and representatives of community boards and borough
9 boards may attend and be heard.]

10
11 b. Findings and recommendations of [the board of estimate and]
12 the council, or its committees, [as to capital projects proposed
13 to be included in the budget] including recommendations for any
14 changes in the unit of appropriation structure which the council
15 deems appropriate, shall be submitted to the mayor and published
16 not later than the twenty-fifth day of March. The [total dollar
17 amount of such recommendations shall not exceed] net effect of the
18 changes recommended by the council in the preliminary capital
19 budget shall not result in a capital budget which exceeds the
20 maximum amount [of debt] set forth in the [mayor's] preliminary
21 [statement] certificate issued pursuant to section [two hundred
22 thirteen] sixty-six of this chapter.

23
24 [Sec. 115. Preliminary hearings.

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

1 and be heard.]

2
3 Sec. [116.] 77. Submission of the executive budget.

4
5 a. Not later than the twenty-sixth day of April the mayor
6 [simultaneously] shall submit to [the board of estimate and] the
7 council (1) a proposed executive budget for the ensuing fiscal
8 year, and (2) a budget message, both of which, along with any
9 accompanying reports and schedules, [shall be public records and]
10 shall be printed forthwith.

11
12 b. As soon after the submission of the executive budget as is
13 practicable, the mayor shall submit to the council copies of all
14 proposed local laws and all proposed home rule requests necessary
15 to implement the recommendations made in the executive budget.

16
17 c. Adjustment of expense budget borough allocation. If the
18 executive expense budget submitted by the mayor in accordance with
19 this section includes an expense budget borough allocation which
20 is greater or less than the expense budget borough allocation
21 certified by the mayor to the borough presidents in accordance with
22 subdivision d of section one hundred two, the mayor shall,
23 concomitantly with the submission of the executive expense budget,
24 notify each borough president of the difference between such
25 amounts and of the portion of such difference allocable to each
26 borough pursuant to the provisions of section one hundred two.
27 Within seven days of receiving such notification, each borough
28 president shall submit to the mayor and the council, in such form
29 as the mayor shall prescribe, proposed additional appropriations
30 or proposed reductions in appropriations equaling such portion of
31 such difference.

32
33 d. Adjustments of capital budget borough allocations. If the
34 executive capital budget submitted by the mayor in accordance with

1 this section includes a capital budget borough allocation which is
2 greater or less than the capital budget borough allocation
3 certified by the mayor to the borough presidents in accordance with
4 subdivision c of section two hundred eleven the mayor shall,
5 concomitantly with the submission of such executive capital budget,
6 notify each borough president of the difference between such
7 amounts and of the portion of such difference allocable to each
8 borough pursuant to the provisions of subdivision a of section two
9 hundred eleven. Within seven days of receiving such notification,
10 each borough president shall submit to the mayor and the council,
11 in such form as the mayor shall prescribe, proposed additional
12 appropriations or proposed reductions in appropriations equaling
13 such portion of such difference.

14
15 [Sec. 219.

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

22
23 [Sec. 219.

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

28
29 Sec. [117.

30 b.] 78. The budget message. The budget message, which shall not
31 be deemed a part of the budget, shall include:

32 1. An explanation, in summary terms, of the major programs,
33 projects, emphases and objectives of the budget, the general fiscal
34 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] Recommendations for any changes in the revenue sources and fiscal [sources and] operations of the city, including intergovernmental revenue and fiscal arrangements.

4. An itemized statement of the [revenue] actual revenues and 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] eight months of the current fiscal year, and the estimated [receipts] amount of such items 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 the sources and amounts of all revenues and other monies of a nonrecurring nature that are being proposed to be utilized during the ensuing fiscal year and that are not expected to be available or used in subsequent fiscal years.

6. [For] A four-year financial plan, containing, (a) for each agency, for all existing programs, forecasts of [expenses] expenditures for the ensuing fiscal year and the succeeding three fiscal years at existing levels of service; (b) forecasts of revenue by source from existing sources of revenue for the ensuing

1 fiscal year and the succeeding three fiscal years; and (c) for each
2 new or expanded program, [a three year] an indication of when such
3 program is projected to be fully implemented and a forecast of the
4 annual recurring costs [after] for such program or program
5 expansion after it is fully implemented.

6
7 7. For each [existing program] agency, a comparison of the
8 [expenses] proposed appropriations for the ensuing fiscal year with
9 (i) the amounts appropriated in the current expense budget as
10 originally adopted and as modified through the first eight months
11 of the current fiscal year, (ii) the amounts actually expended in
12 the previous fiscal year and (iii) the amounts actually expended
13 through the first eight months of the current fiscal year and the
14 estimated expenditures for the balance of the current fiscal year
15 [with the prior year's forecast for the current year].

16
17 8. For each agency that has local service districts within
18 community districts and boroughs, a statement of proposed direct
19 [expenses] expenditures in each service district for each unit of
20 appropriation and a statement of the basis for the allocation of
21 direct [expenses] expenditures to local service districts of each
22 such agency.

23
24 9. An explanation of principal changes in performance goals and
25 indicators from the date of submission of the preliminary
26 management report to the submission of the proposed executive
27 budget[s].

28
29 10. An itemized statement, covering the city's entire capital
30 plant, except for those portions of the capital plant which have
31 been committed to the care and control of the board of education
32 or officers or employees thereof, by agency and project type and,
33 within project type, by personal services and other[-]than[-]
34]personal services, of the amounts appropriated for maintenance of

1 such capital plant in the previous and current fiscal years as
2 originally adopted and as modified through the first [nine] eight
3 months of the current fiscal year, and of the amounts actually
4 expended for such maintenance in the previous fiscal year and
5 through the first [nine] eight months of the current fiscal year
6 and the amounts estimated to be expended for such purpose during
7 the balance of the current fiscal year; and, for each agency, an
8 explanation of the substantive differences, if any, between the
9 amounts actually expended for such maintenance in the previous
10 fiscal year or projected to be expended for such purpose in the
11 current fiscal year and the amounts originally appropriated for
12 such purpose for such years.

13
14 11. A presentation of the maintenance activities proposed by
15 the mayor to be completed during the ensuing fiscal year for all
16 major portions of the capital plant, as such terms are defined in
17 subdivision a of section eleven hundred ten-a, categorized by
18 agency and project type; an explanation of the differences, if any,
19 between such proposed activities and the activities scheduled to
20 be undertaken during such fiscal year pursuant to subdivision c of
21 such section; an explanation of the differences, if any, between
22 the proposed appropriations for such activities and the estimates
23 of the amounts submitted, pursuant to subdivision f of such
24 section, as necessary to maintain such portions of the capital
25 plant; and a presentation and explanation of the differences, if
26 any, between the maintenance activities for all major portions of
27 the capital plant proposed by the mayor, in the budget message for
28 the previous fiscal year, to be completed during such fiscal year
29 and the activities actually completed during such fiscal year.

30
31 12. A statement of the extent to which the executive budget
32 incorporates the revisions to the preliminary budget suggested by
33 the borough presidents, in accordance with subdivision a of section
34 seventy-five and the reasons why any other suggested revisions were

1 not incorporated in the executive budget.

2
3 13. A statement of the modifications, if any, which the mayor
4 recommends that the council make in the appropriations submitted
5 by the borough presidents pursuant to sections one hundred two and
6 two hundred eleven.

7
8 14. A statement of any substantive changes in the methodology
9 and assumptions used to determine the revenue estimates presented
10 pursuant to subdivisions four, five and six of this section from
11 the methodology and assumptions presented in the preliminary
12 budget.

13
14 15. A statement of the implications for the orderly development
15 of the city, its community districts and boroughs of the capital
16 projects included in or contemplated by the capital budget and
17 program.

18
19 16. A certificate setting forth the maximum amount of debt and
20 reserves which, in the mayor's opinion, the city may soundly incur
21 for capital projects during the ensuing fiscal year and during each
22 of the following three fiscal years, and the maximum amount of
23 appropriations and expenditures for capital projects which the
24 city, given such maximum amount of debt and reserves, may soundly
25 make during each such fiscal year.

26
27 [Sec. 220. Recommendations of comptroller and city planning
28 commission.

29
30 Not later than the sixth day of May, the comptroller and the city
31 planning commission shall submit to the board of estimate and to
32 the council reports, which shall be published forthwith in the City
33 Record, containing such comments and recommendations with respect
34 to the proposed executive capital budget and capital program as

1 they may deem advisable.]

2
3 Sec. 79. Borough president recommendations on the executive
4 budget. Not later than the sixth day of May, each borough
5 president shall submit to the mayor and the council a response to
6 the mayor's executive budget. Such response shall indicate which
7 of the recommended appropriations submitted by the borough
8 president pursuant to section seventy-five, which were not
9 included by the mayor in the executive budget, should be considered
10 by the council for inclusion in the budget. Any appropriations
11 recommended in this manner for inclusion in the budget shall be
12 accompanied by recommendations for offsetting reductions in other
13 appropriations within the borough. Any such increases or
14 reductions must be stated separately and distinctly and refer each
15 to a single object or purpose.

16
17 Sec. [119.] 80. [Budget] Executive budget hearings.

18 Between the sixth day of May and the twenty-fifth day of May in
19 each year, the [board of estimate and the] council shall hold
20 public hearings on the budget as presented by the mayor. The
21 council may hold such hearings either as a body or by its finance
22 committee or other committees. [The hearings may be held jointly
23 by consent of both bodies.] Officers of agencies and
24 representatives of community boards and borough boards shall have
25 the right, and it shall be their duty when requested by the [board
26 of estimate or the] council, to appear and be heard in regard to
27 the executive budget and to the capital and service needs of the
28 communities, boroughs and the city.

29
30 [Sec. 221. Executive capital budget; hearings.

31
32 Between the sixth day of May and the twenty-fifth day of May in
33 each year, the board of estimate and the council shall hold public
34 hearings on the proposed executive capital budget and executive

1 capital program. The council may hold hearings as a body or by its
2 finance committee or other committees. Such hearings may be held
3 jointly by consent of both bodies. Officers of agencies and
4 representatives of community boards and borough boards shall have
5 the right, and it shall be their duty when requested by the board
6 of estimate or the council, to appear and be heard.]

7
8 Sec. [120. The budget; approval.] 81. Amendment and adoption of
9 the executive budget.

10
11 a. The [board of estimate and the] council may not alter the
12 budget as submitted by the mayor pursuant to section seventy-seven
13 except to increase, decrease, add or omit any unit of appropriation
14 [in the budget as submitted by the mayor,] for personal service or
15 other than personal service or any appropriation for any capital
16 project or add, omit or change any terms or conditions [of it]
17 related to any or all such appropriations; provided, however, that
18 each increase or addition must be stated separately and distinctly
19 from any items of the budget and refer each to a single object or
20 purpose; and, provided, further, that the aggregate amount
21 appropriated for capital projects shall not exceed the maximum
22 amount of appropriations contained in the mayor's certificate
23 issued pursuant to subdivision sixteen of section seventy-eight.

24
25 b. The council shall consider, and act upon, all recommendations
26 made by the borough presidents pursuant to section seventy-nine of
27 this chapter and all recommendations made by the mayor pursuant to
28 paragraph thirteen of section seventy-eight of this chapter.

29
30 c. Such budget when passed by the council shall become effective
31 immediately without further action by the mayor, except that
32 appropriations for the council or appropriations added to the
33 mayor's executive budget by the council or any changes in terms
34 and conditions, shall be subject to the veto of the mayor. When

1 finally adopted in accordance with this section and section eighty-
2 two, such budget as adopted and as modified during the fiscal year
3 in accordance with sections one hundred seven and two hundred
4 sixteen shall have the force of law.

5
6 [b. Except as otherwise provided by law, and subject to the veto
7 of the mayor pursuant to section one hundred twenty-one, the board
8 of estimate and the council, by separate concurrent vote of each
9 body, shall adopt a single budget, and it shall be returned to the
10 mayor not later than the fifth day of June. In the event of a
11 disagreement between the two bodies, each shall appoint members to
12 a conference committee to reconcile differences and to make
13 recommendations to the respective bodies for concurrent vote of
14 each body.]

15
16 [c.] d. If [a single budget] an expense budget has not been
17 adopted by the fifth day of June pursuant to [subdivision]
18 subdivisions a and b of this section, the expense budget and tax
19 rate adopted as modified for the current fiscal year shall be
20 deemed to have been extended for the new fiscal year until such
21 time as a new expense budget [is] has been adopted.

22
23 [d. The mayor shall not participate in any action or vote of the
24 board of estimate on the budget.

25
26 e. The actions and votes of the board of estimate and the council
27 shall be certified to the mayor by the secretary of the board of
28 estimate and the president of the council, respectively.]

29
30 [Sec. 222. Capital budget; adoption.

31
32 a. The board of estimate and the council, by separate concurrent
33 vote of each body, may increase, decrease or omit the amount of
34 the appropriation for any capital project in the proposed executive

1 capital budget or executive capital program, or add any new capital
2 project to such proposed budget or program or add, omit, or change
3 any term or condition of such proposed budget or program. Except
4 as otherwise provided by law, and subject to the veto of the mayor
5 pursuant to section two hundred twenty-three, the board of estimate
6 and the council, by separate concurrent vote of each body, shall
7 adopt a single capital budget and a single capital program, and
8 they shall be returned to the mayor not later than the fifth day
9 of June In the event of a disagreement between the two bodies, each
10 shall appoint members to a conference committee to reconcile
11 differences and make recommendations to the respective bodies.

12
13 b.] e. If a [single] capital budget and a [single] capital program
14 have not been adopted by the fifth day of June pursuant to
15 [subdivision] subdivisions a and b of this section, [they shall be
16 deemed adopted so far as acted on by both bodies with the lower
17 amount of any item in dispute between the two bodies in effect] the
18 unutilized portion of all prior capital appropriations shall be
19 deemed reappropriated.

20
21 [c. The mayor shall not participate in any action or vote of
22 the board of estimate on the executive capital budget or in any
23 action or vote on the executive capital program.]

24
25 Sec. [121.] 82. Veto of the mayor.
26

27 a. The mayor, not later than the [tenth day of June,] fifth day
28 after the council has acted upon the budget or capital program
29 submitted with the executive budget, may disapprove any increase
30 or addition to the budget, any unit of appropriation, or any
31 change in any term or condition of the budget. The mayor, by such
32 date, may also disapprove any item or term or condition included
33 in such budget pursuant to the provisions of section seventy-three
34 of this chapter. The mayor shall return the budget by that date

1 to the [board of estimate and] council, setting forth [his]
2 objections in writing.

3
4 b. [Either the board of estimate by a two-thirds vote of all the
5 members of the board other than the mayor, or the] The council, by
6 a two-thirds vote of all the council members, may override any
7 disapproval by the mayor pursuant to subdivision a of this section;
8 provided, however, that if no such action by the council is taken
9 within ten days of such disapproval, [with the concurrence of the
10 other body by a majority vote of all members other than the mayor
11 in the case of the board of estimate. The board of estimate and
12 the council shall act and] the expense budget to which such
13 disapprovals relate shall be deemed adopted [not later than the
14 twentieth day of June. In the event the board of estimate and the
15 council fail to act by that date, the expense budget] as modified
16 by the disapprovals by the mayor [is adopted].

17
18 [Sec. 223. Veto of the mayor.
19

20 a. Any action by the council on a capital project or on the terms
21 and conditions of the capital budget shall be certified to the
22 mayor by the president of the council. Any action by the board of
23 estimate on a capital project or on the terms and conditions of the
24 capital budget shall be certified to the mayor by the secretary of
25 the board of estimate.

26
27 b. The mayor, not later than the tenth day of June, may disapprove
28 any increase or addition to the executive capital budget or
29 executive capital program or any increase or addition to any
30 capital project in the executive capital budget or executive
31 capital program, or any change in any term or condition of the
32 executive capital budget or executive capital program. The mayor
33 shall return the capital budget and capital program by that date
34 to the board of estimate and council, setting forth his objections

1 in writing.

2
3 c. Either the board of estimate by a two-thirds vote of all the
4 members of the board other than the mayor, or the council by a
5 two-thirds vote of all the council members, may override any
6 disapproval by the mayor pursuant to subdivision b of this section
7 with the concurrence of the other body by a majority vote of all
8 members other than the mayor in the case of the board of estimate.
9 The board of estimate and the council shall act and the capital
10 budget and capital program shall be adopted not later than the
11 twentieth day of June. In the event the board of estimate and the
12 council fail to act by that date, the capital budget and capital
13 program as modified by the mayor are adopted.

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

20
21 Sec. [122.] 83. Appropriation, certification and publication.
22 Not later than the [twenty-first day of June in each year,] day
23 after the budget is finally adopted, the budget as finally adopted
24 in such year shall be certified by the mayor, the comptroller and
25 the city clerk as the budget for the ensuing fiscal year, and the
26 several amounts therein specified as appropriations or units of
27 appropriation shall be and become appropriated to the several
28 purposes therein named, whether payable from the tax levy or
29 otherwise and subject to the terms and conditions of the budget.
30 The budget shall thereupon be filed in the offices of the
31 comptroller and the city clerk, and shall [be a public record and]
32 be published forthwith.
33

1 Sec. 84. Ten-year capital strategy. Not later than thirty days
2 after the budget is finally adopted, the mayor shall prepare a
3 statement of how the capital budget and program as finally adopted
4 vary, if at all, from the ten-year capital strategy, submitted
5 pursuant to section sixty-eight of this chapter. Such statement
6 shall be published as an appendix to the ten year capital strategy.

7
8 Sec. 85. Financial plan. Not later than thirty days after the
9 budget is finally adopted, the mayor shall issue an update of the
10 four year financial plan submitted pursuant to paragraph six of
11 section seventy-eight of this chapter. Such update shall reflect
12 the changes which were made in the budget in accordance with
13 sections eighty-one and eighty-two of this chapter. In addition,
14 on such schedule as the mayor deems appropriate, the mayor shall
15 issue additional updates of the financial plan during the fiscal
16 year.

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 election and remain a resident thereof throughout the term of office.

b. 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 shall be filled by popular election 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

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

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

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

1 to fill the vacancy may be made and on or before the last day on
2 which an occurring vacancy may be filled for the remainder of the
3 unexpired term at the general election in the same year in which
4 the vacancy occurs with party nominations of candidates for such
5 election being made at a primary election, as provided on section
6 6-116 of the election law.

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

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

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

32 (b) if the vacancy occurs before September twentieth in any
33 year and the first Tuesday at least forty-five days after the
34 occurrence of the vacancy is after a regularly scheduled general

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

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

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

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

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

28 Sec. 82. Powers and duties. The president of a borough shall:

29 1. Appoint and may at pleasure remove a deputy and an executive
30 assistant, either of whom may discharge such of the powers of the
31 president of the borough as the president by instrument in writing,
32 filed in the borough president's office and with the [board of
33 estimate] city clerk and each board, body or committee of which the
34 borough president is a member, may delegate to either of them. [and

1 either] Either the deputy or the executive assistant, designated
2 pursuant to this subdivision, in the order of priority specified
3 by the president in such instrument, shall, when such office
4 becomes vacant, or when such president is prevented from attending
5 to the duties of the office, by reason of sickness, absence from
6 the city or suspension from office, temporarily act as such
7 president.

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

13 3. Continue to maintain a topographical bureau for such borough
14 and appoint the director of the bureau who shall also serve as
15 construction coordinator and consulting engineer for the borough
16 and shall have qualifications as a licensed professional engineer.
17 In addition to other duties, the director of the bureau shall
18 monitor capital projects in the borough and shall be available to
19 serve as an expeditor on construction projects in the borough and
20 provide technical assistance with respect to construction projects.

21 4. Have power to recommend capital projects.

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

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

26 7. [Appoint such professional staff within] Within
27 appropriations therefor, establish and maintain a budget office for
28 the borough to assist the borough president in the preparation of
29 budget proposals, review and analysis of proposed budgets,
30 departmental estimates, budget modifications and other fiscal
31 matters under the jurisdiction of the president of the borough.

32 8. Consult with the mayor in the preparation of the executive
33 expense budget and the executive capital budget and submit proposed
34 appropriations and other budget recommendations to the mayor and

1 the council in accordance with chapters three, six, and nine of the
2 charter.

3 9. Establish and maintain a planning office for the borough to
4 assist the borough president in planning for the growth,
5 improvement and development of the borough; reviewing and making
6 recommendations regarding applications and proposals for the use,
7 development or improvement of land located within the borough;
8 preparing environmental analyses required by law; providing
9 technical assistance to the community boards within the borough;
10 and performing such other planning functions as are assigned to
11 the borough president by this charter or other law.

12 10. Monitor and make recommendations regarding the performance
13 of contracts providing for the delivery of services in the borough
14 and, when the borough president deems it appropriate, require that
15 a hearing be held in the borough by a contract performance panel.

16 11. Have power to have legislation introduced in the council;
17 such proposed legislation shall indicate that it was introduced at
18 the behest of the borough president.

19 12. Provide training and technical assistance to the members of
20 community boards within the borough.

21 13. Oversee the coordination of a borough-wide public service
22 complaint program and report to the mayor, council president and
23 public on recurring complaints of borough residents and the borough
24 president's recommendations for improving the city's response to
25 such complaints.

26 14. On or before the first day of September of nineteen hundred
27 ninety, and every four years thereafter, prepare a strategic policy
28 statement for the borough and provide copies of such statement to
29 the mayor, council and community boards in the borough. Such
30 statement shall include: (i) a summary of the most significant long-
31 term issues faced by the borough; (ii) policy goals relate to such
32 issues; and (iii) proposed strategies for meeting such goals. In
33 preparing the statement, the borough president shall consult with
34 the community boards in the borough.

1 15. Make a complete transcript of each public hearing called by
2 the borough president available for public inspection free of
3 charge within sixty days after the hearing and provide a copy of
4 any requested pages of such transcript at a reasonable fee to cover
5 copying and, if relevant, mailing costs.

6 [8] 15. Perform such other functions and duties and exercise such
7 other powers as may be assigned to him by law.

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

15 Sec. 85. Borough board. a. There shall be in each borough a
16 board to be known as the borough board which shall consist of the
17 borough president and the district council members from such
18 borough, and the chairperson of each community board in the
19 borough. The borough president shall be the chairperson of such
20 board, which shall hold public hearings at stated intervals in
21 the borough and report to [the board of estimate,] the council, the
22 mayor and the city planning commission on borough programs and
23 proposed borough capital projects. The borough president, the
24 council members from the borough and the chairperson of the
25 community boards in the borough shall be voting members of the
26 borough board but [A] a member from a community board shall vote
27 only on issues that directly affect the community district
28 represented by such member. The borough board shall employ
29 technical and clerical assistance within appropriations for such
30 purposes, and the borough president shall provide necessary
31 additional staff assistance.

32 b. Each borough board shall:

33 (1) Cooperate with community boards and city agencies with

1 respect to matters relating to the welfare of the borough and its
2 residents;

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

5 (3) Adopt by-laws and [Meet] meet at least once a month but no
6 formal action of the board shall be taken except at a meeting open
7 to the public;

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

11 (5) Prepare comprehensive and special purpose plans for the
12 physical growth, improvement and development of the borough;

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

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

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

21 (9) Evaluate the progress of capital developments within the
22 borough and the quality and quantity of services provided by
23 agencies within the borough; [and]

24 (10) Give notice of all its public meetings and hearings, and
25 make such meetings and hearings available for broadcasting and
26 cablecasting;

27 (11) Keep a public record of its activities and transactions,
28 including minutes of meetings, majority and minority reports, by-
29 laws, and all documents which the board is required by law to
30 review; such documents shall, in accordance with law, be made
31 available to elected officials upon request and for reasonable
32 public inspection;

33 ([10]12) Otherwise consider the needs of the borough.

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

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

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

14 Sec. 86. Opening and closing streets. Except in the case of
15 an emergency, no person, agency, business, association, or
16 corporation shall remove the pavement, disturb the surface or
17 otherwise open or close a street, road or highway until a written
18 notice is filed at least ten days in advance of the intended
19 action with the construction coordinator and consulting engineer
20 for the borough in the office of the borough president and the
21 office of district manager for the community district in which
22 the street, road or highway is located. In the event of an
23 emergency, such notice may be made in person or by telephone before
24 the action is instituted and in writing immediately after the
25 action is instituted. If this is not feasible, notice shall be
26 made in person or by telephone and in writing immediately after the
27 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 or her 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 or she may deem advisable in the public interest.

b. [He] The comptroller shall have power to audit and 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] the comptroller may deem necessary. The comptroller shall conduct all audits of entities under contract with the city as expeditiously as possible and in no case shall initiate an audit later than two years after the expiration of a contract term unless the comptroller determines in writing that: (1) such audit is initiated in connection with litigation brought by or against the city, (2) it was not practicable to initiate an audit within such two year period, or (3) the initiation of the audit after the two year period is appropriate in light of information discovered in an

1 audit of another contract of the same contractor. Such written
2 determination shall be filed with the mayor, council and council
3 president.

4 c. The comptroller shall have power to audit all agencies, as
5 defined in subdivision two of section eleven hundred fifty, and all
6 agencies, the majority of whose members are appointed by city
7 officials. The comptroller shall be entitled to obtain access to
8 agency records required by law to be kept confidential, other than
9 records which are protected by the privileges for attorney-client
10 communications, attorney work products, or material prepared for
11 litigation, upon a representation by the comptroller that necessary
12 and appropriate steps will be taken to protect the confidentiality
13 of such records. The comptroller shall establish a regular auditing
14 cycle to ensure that one or more of the programs or activities of
15 each city agency, or one or more aspects of each agency's
16 operations, is audited at least once every four years. The audits
17 conducted by the comptroller shall comply with generally accepted
18 government auditing standards. In accordance with such standards,
19 and before any draft or final audit or audit report, or portion
20 thereof, may be made public, the comptroller shall send a copy of
21 the draft audit or audit report to the head of the audited agency
22 and provide the agency, in writing, with a reasonable deadline for
23 its review and response. The comptroller shall include copies of
24 any such agency response in any draft or final audit or audit
25 report, or portion thereof, which is made public. The comptroller
26 shall send copies of all final audits and audit reports to the
27 council, the mayor, and the audit committee.

28 [c] d. The comptroller shall (1) audit financial transactions
29 of the city, including vouchers, warrants, and payrolls; (2) audit
30 all official accounts and the accrual and collection annually of
31 all revenues and receipts; and (3) audit the expenditure of city
32 funds by any public or private agency that receives such funds from
33 the city.

1 [d]e. The comptroller shall audit the operations and programs
2 of city agencies to determine whether funds are being expended or
3 utilized efficiently and economically and whether the desired
4 goals, results or benefits of agency programs are being achieved.
5 [He] The comptroller shall investigate the processing of vouchers
6 and the payment of bills by city agencies and shall audit agency
7 compliance with applicable procedures in procuring goods, services
8 and construction. The comptroller shall also undertake studies,
9 including cost benefit analyses, of: (i) purchases of [equipment,]
10 goods [and], services, and construction by agencies of government
11 that use city funds for such purposes and (ii) the adoption and use
12 of new technology by city agencies to promote their economy and
13 efficiency, and periodically report [his] the findings and
14 recommendations of such studies to the mayor, [the board of
15 estimate,] the council and the public.
16 f. Not later than the first day of March of each year, the
17 comptroller shall deliver to the mayor and council a report
18 describing all major audits of city agencies conducted by the
19 comptroller during the previous fiscal year; the corrective actions
20 recommended in such audits; the corrective actions which have been
21 implemented to the extent such information is known to the
22 comptroller on the basis of agency reports, comptroller audits, or
23 otherwise; and the comptroller's recommendations, if any, for
24 additional corrective actions.
25 [e]g. The comptroller shall have the power and [it shall be his]
26 duty to audit all vouchers before payment for availability of funds
27 and prepare warrants. No warrant shall be prepared by the
28 comptroller unless sufficient appropriations are available to cover
29 the payments involved. No agency shall expend or commit any funds
30 otherwise than for the program and purposes for which the funds
31 have been appropriated and the comptroller shall conduct audits and
32 take such other action as is required to assure compliance with
33 this provision.

1 [f]h. Except as provided in [subsection e] subdivision g, [not
2 later than July first, nineteen hundred seventy-seven] the agencies
3 shall prepare and audit vouchers before payment, prepare and audit
4 payrolls, receive and inspect goods and forward [bills] vouchers
5 to the comptroller for payment. The comptroller shall prescribe
6 methods, with which all agencies shall comply, for preparing and
7 auditing vouchers before payment, preparing payrolls, and
8 recording, reporting and accounting in the several agencies and
9 shall conduct reviews to assure compliance. The comptroller may
10 suspend or withdraw the authority delegated to an agency pursuant
11 to this subdivision (1) upon a finding of abuse of such authority
12 or on a determination that the agency lacks adequate internal
13 controls to exercise such authority properly and (2) upon the
14 approval of the [board of estimate] audit committee after the
15 agency has had an opportunity to be heard on this matter.
16 [g]i. The comptroller shall have the power to settle and
17 adjust all claims in favor of or against the city in such manner
18 as shall be prescribed by law and for that purpose may administer
19 oaths, except that, with regard to excise and non-property taxes,
20 such power shall be vested in the commissioner of finance. The
21 comptroller shall not revise the terms of a contract or agreement
22 with the city after its execution. The city may include in
23 construction contracts or agreements for capital projects
24 provisions that authorize the comptroller to submit disputes
25 arising under any such contract or agreement to impartial
26 arbitration.
27 [h]i. [He] The comptroller shall administer and manage the
28 several sinking funds of the city and all other trust funds held
29 by the city, and provide for the receipt and safekeeping of all
30 moneys in such funds, except as provided in paragraph b of
31 subdivision three of section fifteen hundred four of this charter,
32 and in such administration [he] the comptroller shall be deemed to
33 be acting in a fiduciary capacity.

1 [i]k. [He] The comptroller shall keep the accounts of the city
2 and shall at least once in each month render to each agency a
3 summary statement of so much thereof as relates to such agency.

4 [j]l. Within four months after the close of each fiscal year,
5 the comptroller shall publish a statement for such year, including
6 a full and detailed statement of the [receipts] revenues and
7 expenditures of the city and the [cash balance or] surplus at the
8 end of the fiscal year, including the average daily collected
9 deposits in bank accounts of the city, the investment performance
10 of city pension and other investment funds, an itemized statement
11 of all taxes due and uncollected at the close of the fiscal year,
12 the reserve for estimated uncollectible taxes, and the uncollected
13 parking violation fines receivable, an itemized statement of the
14 condition of the sinking funds, [the street and park openings fund
15 and the street improvement fund, so long as such funds shall be
16 continued,] and any other assessable improvement funds, and of the
17 tax appropriation and general fund stabilization reserve fund as
18 at the close of the fiscal year, the different sources of city
19 revenue, including itemization of receivables due from state or
20 federal sources by program and fiscal year, and the amount received
21 from each, the several appropriations made for the fiscal year, the
22 objects for which they were made and the amount of [moneys
23 expended] expenditures made under each, the money borrowed on the
24 credit of the city, the amount of each loan, the authority under
25 which it was made and the terms on which it was obtained, and such
26 other information in regard to such fiscal year as may be
27 determined by the comptroller or by law.

28 [k]m. [On January first, nineteen hundred seventy-six, the] The
29 comptroller shall [begin to] establish for his or her office and
30 [in] for all city agencies a uniform system of [uniform] accounting
31 and reporting based on [the principles set forth in the state
32 comptroller's uniform system of accounts for municipalities as
33 modified by the state comptroller in consultation with the city
34 comptroller, for application to the city] generally accepted

1 accounting principles. [Such system of uniform accounting and
2 reporting shall be fully implemented not later than January first,
3 nineteen hundred eighty-one.]

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

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

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

13 (2)] Such uniform system of [uniform] accounts shall provide:

14 a. control accounts in the office of the comptroller that are
15 consistent with budgeted units of appropriation and that are
16 adequate to record and control spending by the agencies and to
17 prevent agencies from exceeding appropriations;

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

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

24 [(3)] (2) The comptroller shall prescribe procedures for
25 accounting and reporting for all agencies, review agency accounts
26 and systems to assure compliance with this chapter and with the
27 methods, standards and procedures prescribed by [him] the
28 comptroller for the agencies.

29 [1]n. [He] The comptroller shall prescribe systems of accounting
30 for city agencies whose revenues arising out of the use of the
31 facilities and services supplied by such agencies constitute fifty
32 per centum or more of the appropriations provided for the
33 operation of such agencies, which systems of accounting shall
34 conform so far as practicable to standard public utility accounting

1 practices. The comptroller shall publish in the comptroller's
2 annual report [statistical data in regard to the financial
3 operations of such city agencies] the financial statements for such
4 city agencies.

5 [m]o. Notwithstanding the provisions of any general, special
6 or local law or this charter or any contract heretofore or
7 hereafter made or awarded by the city of New York or by any agency,
8 department or authority acting on its behalf, the comptroller may,
9 at his or her discretion, turn over the physical custody and
10 safekeeping of bonds, notes, obligations or other evidences of
11 indebtedness which have been or will be deposited with [him] the
12 comptroller as collateral security as required by law or contract
13 to a custodian who may be (a) any bank or trust company
14 incorporated in the state, or (b) any national bank located in the
15 state, or (c) any private banker duly authorized by the
16 superintendent of banks of this state to engage in business here.
17 The comptroller may enter into a contract with such custodian under
18 terms and conditions which the comptroller may require. Each
19 depositor of collateral security shall bear [his or its] a
20 proportionate share of the cost of such custodial safekeeping which
21 shall be paid to the city of New York.

22 [n]p. No contract or agreement executed pursuant to this
23 charter or other law shall be implemented until (1) a copy has been
24 filed with the comptroller and (2) [either] the comptroller has
25 registered it [or thirty days have elapsed from the date of filing,
26 whichever is sooner], in accordance with sections three hundred
27 fifty-eight and three hundred seventy-five of the charter.

28 [o]q. The council shall periodically review the requirements
29 contained in the charter for studies and reports by the comptroller
30 and may by local law revise such requirements as it deems
31 appropriate. At such times as the mayor or the council shall
32 request, the comptroller shall submit to them such information as
33 they may request. The comptroller, upon request, shall assist the
34 [board of estimate or the] council in the conduct of any of its

1 investigations or studies [by either body] of the fiscal or
2 economic affairs of the city or of any agency. [He] The
3 comptroller shall provide reports to the [board of estimate or the]
4 council upon request [of either body] and shall testify before
5 [either body] the council or a committee [of either body] thereof.
6 r. The comptroller shall make a complete transcript of each
7 public hearing conducted by the office available for public
8 inspection free of charge within sixty days after such hearing.
9 The comptroller shall also provide a copy of any requested pages
10 of such transcript at a reasonable fee to cover copying and, if
11 relevant, mailing costs.

12 Sec. 94. Deputy comptrollers and other appointees. a. The
13 comptroller shall appoint and at pleasure remove a first, and
14 second deputy comptroller. [He] The comptroller may appoint and at
15 pleasure remove a third deputy comptroller who shall be a person
16 qualified to advise and assist the comptroller in all matters
17 relating to borrowings and the investment of funds. Except as
18 provided in subdivision b of this section, each of the deputies and
19 any officer or employee appointed by the comptroller shall have
20 such powers and duties as may be assigned to such person by the
21 comptroller by instrument in writing filed with the city clerk.
22 Provided however that no more than five (5) such additionally
23 appointed officers or employees shall serve simultaneously. The
24 city clerk shall notify the city council of the filing or
25 revocation of each such appointment.

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

1 the city clerk.

2 c. Any vacancy in the office of comptroller shall be filled
3 by popular election, in the manner set forth in this subdivision.
4 In the event of a vacancy in the office of comptroller until an
5 interim or permanent successor is first elected, or whenever by
6 reason of sickness, absence from the city or suspension from
7 office, the comptroller shall be prevented from attending to the
8 duties of the office, or while the comptroller is acting as mayor,
9 the first deputy comptroller or in the case of his or her illness
10 or absence the second deputy comptroller or in the case of his or
11 her illness or absence the third deputy comptroller shall act as
12 comptroller.

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

24 2. If a vacancy occurs during the first three years of the
25 term, a general election to fill the vacancy for the remainder of
26 the unexpired term shall be held in the year in which the vacancy
27 occurs, unless the vacancy occurs after the last day on which an
28 occurring vacancy may be filled at the general election in that
29 same year with party nominations of candidates for such election
30 being made at a primary election, as provided in section 6-116 of
31 the election law. If such a vacancy occurs in any year after such
32 last day, it shall be filled for the remainder of the unexpired
33 term at the general election in the following year provided,
34 however, that no general election to fill a vacancy shall be held

1 in the last year of the term, except as provided in paragraph nine
2 of this subdivision. Party nominations of candidates for a general
3 election to fill a vacancy for the remainder of the unexpired term
4 shall be made at a primary election, except as provided in
5 paragraph five of this subdivision.

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

17 4. If a vacancy occurs during the first three years of the
18 term and on or before the last day in the third year of the term
19 on which an occurring vacancy may be filled for the remainder of
20 the unexpired term at a general election with party nominations of
21 candidates for such election being made at a primary election, as
22 provided in section 6-116 of the election law, a special or general
23 election to fill the vacancy on an interim basis shall be held,
24 unless the vacancy occurs less than ninety days before the next
25 primary election at which party nominations for a general election
26 to fill the vacancy may be made and on or before the last day on
27 which an occurring vacancy may be filled for the remainder of the
28 unexpired term at the general election in the same year in which
29 the vacancy occurs with party nominations of candidates for such
30 election being made at a primary election, as provided on section
31 6-116 of the election law.

32 5. If a vacancy occurs after the last day in the third year
33 of the term on which an occurring vacancy may be filled for the
34 remainder of the unexpired term at a general election in each year

1 with party nominations of candidates for such election being made
2 at a primary election, as provided in section 6-116 of the election
3 law, but not less than ninety days before the date of the primary
4 election in the fourth year of such term, a special or general
5 election to fill such vacancy for the remainder of the unexpired
6 term shall be held.

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

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

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

28 (c) if the vacancy occurs on or after September twentieth in
29 any year and the first Tuesday at least forty-five days after the
30 occurrence of the vacancy is after, but less than thirty days
31 after, a regularly scheduled general election, the vacancy shall
32 be filled at a special election to be held on the first Tuesday in
33 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] assets of the city by a firm or firms of certified public accountants selected by the [board of estimate] audit committee, 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] eight consecutive years provided, however, that no audit engagement contract shall exceed four years.

[Sec. 95*. Third deputy comptroller. The comptroller may appoint and at pleasure remove a third deputy comptroller who shall be a

1 person qualified to advise and assist the comptroller in all
2 matters related to borrowings and the investment of funds.]

3 Sec. 96. Actuarial audit. The [board of estimate] comptroller,
4 with the approval of the audit committee, biennially shall select
5 an independent actuary to review and comment upon the financial
6 soundness and probity of the actuarial assumptions employed by the
7 city to calculate contributions to the city pension funds. The
8 report of the actuary shall be published in the City Record. No
9 actuary may be selected more than twice consecutively.

10 Sec. 97. Audit committee. a. There shall be an audit committee
11 which shall consist of the mayor, the comptroller, the president
12 of the council, and four private members appointed by the mayor,
13 two of whom shall be appointed upon the recommendation of the
14 comptroller. The members of the committee shall elect a private
15 member as chairperson for an annual term commencing on the first
16 day of March.

17 b. The private members of the audit committee shall include
18 (i) two persons with expertise in finance, and (ii) two persons
19 with expertise in accounting. Two private members, one of whom
20 shall have been recommended by the comptroller, shall serve for
21 two-year terms commencing on the first day of March of nineteen
22 hundred ninety; and two private members, one of whom shall have
23 been recommended by the comptroller, shall serve for two year terms
24 commencing on the first day of March of nineteen hundred ninety-
25 one. Private members shall continue in office until their
26 successors have been appointed and qualified. Private members shall
27 serve without salary but shall be reimbursed for expenses actually
28 and necessarily incurred in the performance of official duties and
29 shall also receive a per diem allowance when rendering services to
30 the committee.

31 c. The audit committee shall:

32 (1) approve or disapprove the comptroller's suspension
33 or withdrawal of authority delegated to an agency pursuant to
34 subdivision h of section ninety-three;

(2) select a firm or firms of certified public accountants to perform the annual audit of the city's accounts required by section ninety-five;

(3) assist in the determination of areas of inquiry for, review the progress of, and evaluate the results of, the annual audit required by section ninety-five;

(4) approve the selection of the independent actuary to perform the actuarial audit required by section ninety-six; and

(5) perform such other functions as are agreed to by all of the members.

1 CHAPTER 5-A

2 INDEPENDENT BUDGET OFFICE

3
4 Sec. 98. Independent budget office.

5
6 a. There shall be an independent budget office to be headed by a
7 director who shall be appointed upon the recommendation of the
8 independent budget office advisory board, by a special committee
9 convened for this purpose. Such committee shall consist of the
10 comptroller, the council president, a borough president chosen by
11 the borough presidents, and a council member chosen by the council,
12 and shall act by majority vote. The director shall be appointed
13 without regard to political affiliation and solely on the basis of
14 fitness to perform the duties assigned by this chapter. The term
15 of office of the director first appointed shall expire on August
16 first, nineteen hundred ninety-four, and the terms of office of
17 directors subsequently appointed shall expire on such date in each
18 fourth year thereafter. Any individual appointed to fill a vacancy
19 prior to the expiration of a term shall serve only for the
20 unexpired portion of the term. An individual serving as director
21 at the expiration of a term may continue to serve until a successor
22 is appointed.

23
24 b. The appropriations available to pay for the expenses of the
25 independent budget office during each fiscal year shall not be less
26 than ten percentum of the appropriations available to pay for the
27 expenses of the office of management and budget during such fiscal
28 year. The director shall appoint such personnel and procure the
29 services of such experts and consultants, within the appropriations
30 available therefor, as may be necessary for the director to carry
31 out the duties and functions assigned herein. Such personnel and
32 experts shall perform such duties as may be assigned to them by the
33 director.

1 c. The director shall be authorized to secure such information,
2 data, estimates and statistics from the agencies of the city as the
3 director determines to be necessary for the performance of the
4 functions and duties of the office, and such agencies shall provide
5 such information, to the extent that it is available, in a timely
6 fashion. The director shall not be entitled to obtain records
7 which are protected by the privileges for attorney-client
8 communications, attorney work product, and material prepared for
9 litigation.

10
11 d. There shall be an independent budget office advisory committee
12 consisting of ten members appointed jointly by the comptroller and
13 the council president for five year staggered terms. Of the members
14 originally appointed, two shall serve until the thirty-first day
15 of March of nineteen hundred ninety-three, two shall serve until
16 the thirty-first day of March of nineteen hundred ninety-four, two
17 shall serve until the thirty-first day of March of nineteen hundred
18 ninety-five, two shall serve until the thirty-first day of March
19 of nineteen hundred ninety-six and two shall serve until the
20 thirty-first day of March nineteen hundred ninety-seven. The
21 members shall all be individuals with extensive experience and
22 knowledge in the fields of finance, economics, accounting, public
23 administration and public policy analysis, including at least one
24 former director of the New York City office of management and
25 budget or of a comparable office in another local governmental
26 jurisdiction in the United States; one nationally recognized expert
27 in the fields of budget theory and the budgetary process; one
28 former director of the New York State division of the budget or of
29 a comparable legislative or executive office in another state
30 government; one dean or director or former dean or director of a
31 graduate school of business administration located in New York
32 City; one dean or director or former dean or director of a graduate
33 school of public administration or public affairs or public policy
34 located in New York City; one chair of former chair of a graduate

economics department of a college or university located in New York City; one officer or former officer of, or economic advisor of, a labor union; one officer or former officer of, or economic advisor to, a business corporation; one officer or former officer of a civic or public interest advocacy organization involved in budgetary matters; and one officer or former officer of a human services advocacy organization involved in budget matters. No member may be reappointed to consecutive terms. Vacancies occurring because of the expiration of terms shall be filled promptly on the recommendation of the members of the committee whose terms are not expiring. Vacancies occurring otherwise shall be filled promptly on the recommendation of the remaining members of the committee. The members of the committee shall receive no compensation but shall be reimbursed for their necessary expenses. The committee shall at its first meeting in every even numbered year elect, from among its members, a chair and vice-chair who shall serve until the thirty-first day of March of the next even numbered year.

Sec. 99. Powers and duties.

a. It shall be the duty of the office to provide to the comptroller, the president of the council, the members and committees of the council, the borough presidents, and the community boards information which will assist such officials and bodies in the discharge of their responsibilities which are related to the budgetary process, including:

(1) information with respect to the budget, appropriations bills and proposed local laws with fiscal implications;

(2) information with respect to estimated revenues and receipts and changing revenue conditions; and

(3) to the extent practicable, such other information or analyses as may be requested by such officials and bodies.

1 b. The director, upon the request of a borough president or the
2 president of the council for a proposed local law introduced by
3 such official, or the chair or ranking minority member of a
4 committee of the council for a proposed local law being considered
5 by such committee, shall complete a fiscal impact statement of such
6 proposed local law consistent with the requirements of section
7 thirty-three.

8
9 c. The director shall from time to time publish such reports as may
10 be appropriate to enhance official and public understanding of the
11 budgetary process and of the budget documents published in
12 accordance with the provisions of chapters three, six and nine.
13 The director shall from time to time publish such reports as may
14 be necessary or appropriate to provide such information, data, and
15 analysis as will enhance official and public understanding of
16 matters relating to city revenues, expenditures, financial
17 management practices and related matters.

18
19 d. The director may procure, for the office, up-to-date computer
20 equipment, obtain the services of experts and consultants in
21 computer technology, and develop techniques for the evaluation of
22 revenue projections and budgetary requirements.

23
24 e. On or before the first day of February of each year, the
25 director shall publish a report, for the ensuing fiscal year, with
26 respect to expected levels of revenues and expenditures, taking
27 into account projected economic factors and the proposals contained
28 in the preliminary budget submitted by the mayor for such fiscal
29 year. Such report shall also include a discussion of city budget
30 priorities, including alternative ways of allocating the total
31 amount of appropriations, expenditures and commitments for such
32 fiscal year among major programs or functional categories taking
33 into account how such alternative allocations will meet major city
34 needs and effect balanced growth and development in the city.

1 f. On or before the fifteenth day of March of each year, the
2 director shall publish a report analyzing the preliminary budget
3 for the ensuing fiscal year.

4
5 g. On or before the fifteenth day of May of each year, the director
6 shall publish a report analyzing the executive budget for the
7 ensuing fiscal year.

8
9 h. The director shall make all information, data, estimates, and
10 statistics obtained under subdivision c of section ninety-eight,
11 and all studies and reports prepared by the office, available for
12 public inspection and copying during normal business hours and
13 shall, to the extent practicable, furnish a copy of any such
14 information or report to any person upon request at a reasonable
15 cost.

CHAPTER 6

EXPENSE BUDGET

Sec. [112.]100. [Departmental] Format of expense budget
departmental estimates, preliminary expense budget, and executive
expense budget.

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] The expense budget
departmental estimates [and], the preliminary expense budget, and
the executive expense budget for each year shall consist of
proposed units of appropriation for personal [services] service and
proposed units of appropriation for other than personal [services]
service for the ensuing fiscal year.

b. Each agency head, for the departmental estimates, and the mayor,
for the executive budget, shall submit (i) a statement of the
impact [on] of the proposed units of appropriation on the level of
services to be provided during the ensuing fiscal year and (ii)
a written response to each of the expense budget priorities
included in each community board's statement of budget priorities
submitted in accordance with section sixty-one of this charter,
including the disposition of each such priority and a meaningful
explanation of any disapprovals contained in such estimates or
budget. [Each agency that delivers local services within community
district shall consult with the respective community boards in the
preparation of its estimates.]

c. Each proposed unit of appropriation [for personal service]
shall represent the amount requested for personal service or for
other than personal service for a particular program, purpose,
activity or institution[. c. Each] ;provided, however, that a

1 single unit of appropriation for personal service or a single unit
2 of appropriation for other than personal service may represent the
3 amount requested for more than one particular program, purpose,
4 activity or institution if the council has adopted, on the
5 recommendation of the mayor, or if the council has adopted on its
6 own initiative and the mayor has approved, a resolution setting
7 forth the names, and a statement of the programmatic objectives,
8 of each program, purpose, activity or institution to be included
9 in such a single unit of appropriation. Copies of such resolutions
10 must be included as an appendix to any preliminary budget,
11 executive budget, and adopted budget to which they apply. If, in
12 accordance with such a resolution, a proposed unit of appropriation
13 for other than personal service shall represent the total amount
14 requested for other than personal service for [a particular agency;
15 provided, however, that] more than one proposed unit of
16 appropriation for personal service, the amount [thereof] of such
17 unit of appropriation for other than personal service which is
18 allocable to each unit of appropriation for personal service [in
19 such agency] shall be set forth for informational purposes at the
20 end of each such unit of appropriation for personal service. If,
21 in accordance with such a resolution, a proposed unit of
22 appropriation for personal service shall represent the total amount
23 requested for personal service for more than one proposed unit of
24 appropriation for other than personal service, the amount of such
25 unit of appropriation for personal service which is allocable to
26 each unit of appropriation for other than personal service shall
27 be set forth for informational purposes at the end of each such
28 unit of appropriation for other than personal service.

29
30 d. Each proposed unit of appropriation contained in the
31 departmental estimates, the preliminary expense budget and the
32 executive expense budget shall be accompanied by a statement of the
33 programmatic objectives of the program, purpose, activity or
34 institution involved.

1
2 e. Each [requested] proposed unit of appropriation contained in
3 the departmental estimates and the executive budget shall be
4 supported by line items showing how the total amount of such unit
5 is determined. [Such]

6
7 f. The departmental estimates shall be in such form and contain
8 such further information as may be required by the mayor or by
9 law[. Such departmental estimates] and shall be public records
10 [and] which shall at all reasonable times be open to public
11 inspection.

12
13 g. For each city agency that has local or borough service
14 districts within community districts and boroughs, the departmental
15 estimates and the executive budget, where practicable, shall
16 contain a statement of proposed direct [expenses] expenditures in
17 each such service district for each requested unit of
18 appropriation[, pursuant to the requirements and time periods
19 specified in subdivision k of section ninety-three].

20
21 h. The departmental estimates and the executive expense budget
22 shall include a contract budget prepared in accordance with the
23 provisions of section one hundred four.

24
25 Sec. [112-a.]101. Preliminary expense budget [statements].

26
27 [a. Not later than the sixteenth day of January, the mayor shall
28 submit the preliminary budget statements for the ensuing fiscal
29 year to the board of estimate, council and each community board
30 and borough board. Such] The preliminary expense budget
31 [statements] shall contain proposed expenditures and a forecast of
32 revenues for the ensuing fiscal year, including, for each tax
33 revenue source which represents five percent or more of the total
34 forecast of tax revenues, a detailed statement of the methodology

1 and assumptions used to determine the forecast of revenues
2 estimated to be received from such source in sufficient detail to
3 facilitate official and public understanding of the manner in which
4 such forecasts are made, [and] shall indicate proposed units of
5 appropriations for personal [services] service and for other than
6 personal service, [services. Such preliminary budget statements
7 shall consist of: (1)] shall include a financial plan covering
8 estimates of expenditures and revenues for the four ensuing fiscal
9 years with the amounts estimated to be available for discretionary
10 increases, as defined in section one hundred two, in such years,
11 [(2)] shall include the departmental estimates of agency
12 expenditures for the ensuing fiscal year pursuant to section one
13 hundred [twelve] together with proposed sources of revenue for each
14 unit of appropriation specified therein and [(3)] shall present a
15 plan to ensure balance between the expense and revenue budgets
16 during the ensuing fiscal year[, by unit of appropriation where
17 actions are allocated to specific agencies, showing the number of
18 full-time personnel affected in each agency, the estimated impact
19 on services that would result from such plan and the funding
20 consequences of such plan].

21
22
23 Sec. 102. Expense budget borough allocations.
24

25 a. Definition. The term "discretionary increases" as used in this
26 section shall mean an amount equal to the total amount of general
27 fund expenditures of city funds and state and federal funds over
28 which the city has substantial discretion proposed to be made in
29 the ensuing fiscal year for all purposes other than debt service
30 minus the sum of the following items as certified by the mayor,
31 including related fringe benefits:

32
33 1. all such proposed expenditures which are necessary to
34 continue to operate current programs and provide current services

1 at the levels at which they were authorized to be operated or
2 provided, pursuant to the expense budget for the current year as
3 adopted in accordance with section eighty-one and eighty-two or
4 at levels not exceeding such levels;

5 2. all proposed increases in such expenditures for current
6 programs or services which are projected to be necessary to
7 accommodate projected increases in the caseload of current
8 programs or to accommodate a portion of such projected increases;

9 3. all proposed increases in such expenditures for current
10 programs or services which are projected to be necessary as a
11 result of federal, state or local laws or judicial decisions which
12 require increases in benefit levels, service levels, or similar
13 matters;

14 4. all proposed increases in such expenditures for new
15 programs or new services required by federal, state or local law
16 to be initiated during the ensuing fiscal year; and

17 5. all proposed expenditures, in excess of the expenditures
18 specified in paragraph one of this subdivision, which are necessary
19 to continue to operate current programs and provide current
20 services at the levels at which they are currently authorized to
21 be operated or provided pursuant to the expense budget for the
22 current year as modified in accordance with section one hundred
23 seven, excluding the portion of such excess which is attributable
24 to budget modifications adopted in accordance with such section
25 which were not necessary to (i) continue to operate programs and
26 provide services at the level at which they were authorized in the
27 expense budget for the current year as initially adopted, (ii)
28 accommodate actual but unanticipated caseload increases in such
29 programs, or (iii) accommodate actual but unanticipated increases
30 in spending of the types referred to in paragraphs three and four
31 of this subdivision, and excluding that portion of any expenditure
32 increase which was financed by a decrease in any appropriations
33 originally included in the executive expense budget for the current
34 year to pay for a discretionary increase.

1
2 b. Borough allocation. Five percent of the total amount of the
3 discretionary increases which the mayor includes in the executive
4 expense budget for the ensuing fiscal year shall be allocated among
5 the boroughs by a formula based on factors related to population
6 and need and shall be known as the expense budget borough
7 allocation. Such formula shall be established by local law, but
8 in any fiscal year for which no such local law is effective, such
9 expense budget borough allocation shall be allocated among the
10 boroughs on the basis of the average of (i) each borough's share
11 of the total population of the city, (ii) each borough's share of
12 the total population of the city below one hundred twenty-five
13 percent of the poverty level, and (iii) each borough's share of
14 the total land area of the city. Such a borough allocation shall
15 be reduced by any amounts necessary, in excess of the amounts
16 available pursuant to section one hundred two-a of this chapter,
17 to pay for the operating costs, as certified in accordance with the
18 provisions of subparagraph a of paragraph one of subdivision c of
19 section two hundred eleven, of capital project constructed with
20 funds recommended for appropriation by the borough president in
21 accordance with the provisions of section two hundred eleven.

22
23 c. Preliminary borough allocations; initial borough president
24 notification. Concomitantly with the submission of the preliminary
25 expense budget, the mayor shall inform each borough president of
26 the portion of the executive expense budget for the ensuing fiscal
27 year and for the three subsequent fiscal years that, pursuant to
28 the formula required by subdivision b of this section, would be
29 allocated to each borough if the amount of the discretionary
30 increases for the ensuing fiscal year and for the three subsequent
31 years were the same as the amounts projected by the mayor, in
32 accordance with section one hundred one, to be available for such
33 purposes in such years. The amount of such portion shall be known
34 as the preliminary expense budget borough allocation.

1
2 d. Borough president proposals. Each borough president, during
3 the consultations required by section seventy-four, shall submit
4 to the mayor, in such form as the mayor shall prescribe, proposed
5 appropriations for the expense budget not exceeding such borough's
6 allocation of the expense budget borough allocation as certified
7 by the mayor to the borough presidents during such consultations.
8 The timing of such certification shall allow sufficient time for
9 such consultations and for meeting the deadlines established by
10 section seventy-seven. The mayor shall include such proposed
11 appropriations without modification in the executive expense budget
12 in accordance with the provisions subdivision two of section one
13 hundred three of this charter, provided, however, that the mayor
14 may also include such comments and recommendations relating to such
15 proposed appropriations as the mayor may deem proper.

16
17 Sec. 102-a. Capital budget borough allocation expense budget
18 contingencies. An amount equal to nine tenths of one percent of
19 the cost of capital projects constructed with funds recommended
20 for appropriation in accordance with the provisions of section two
21 hundred eleven, shall be available to provide for the expense
22 budget requirements of such capital projects.

23
24 Sec. [117.]103. Contents of the executive expense budget.

25
26 a. There shall be included in the budget:

27 1. Units of appropriation, prepared according to section [one
28 hundred twelve] one hundred, in such amounts and upon such terms
29 and conditions as may be determined by the mayor. Such
30 appropriations shall include:

31 [2.](a) The amounts required by law to be appropriated
32 to the several sinking funds as certified by the comptroller.

33 [3.](b) The amount required to pay the interest and
34 principal of city obligations as certified by the comptroller.

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

4 [5.](c) [The] An amount, as certified by the
5 comptroller, equal to the average of all expenditures during each
6 of the five preceding fiscal years for the payment of the expense
7 of the removal of snow and ice, exclusive of salaries and wages of
8 regular employees of the city except for overtime work and for work
9 on Sundays and holidays, and exclusive of the purchase of
10 equipment.

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

16 [7.](e) Such other amounts as may be required by law.

17 [8. The terms and conditions under which appropriations
18 shall be administered.]

19 [9.](f) Such amounts as shall be determined in the
20 manner provided in this chapter to be necessary to pay the expenses
21 of conducting the business of the city for the ensuing fiscal year
22 and for other lawful public purposes.

23 [10. There shall be appropriated in the expense budget]

24 (g) [a]A reserve for unanticipated contingencies.

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

30 2. The proposed appropriations submitted by the borough
31 presidents in accordance with section one hundred two.

32 3. An identification of the proposed appropriations, being
33 proposed, by agency and project type and, within project type, by
34 personal service and other than personal service, for the

1 maintenance of all major portions of the capital plant, as such
2 terms are defined in subdivision a of section eleven hundred ten-
3 a.

4 4. The terms and conditions under which appropriations shall
5 be administered.

6
7 b. All such units of appropriation and other amounts shall be
8 set forth without deduction of revenues from any source except as
9 otherwise provided by law.

10
11 Sec. 104. Contract budget.

12
13 a. Each contract budget shall set forth by agency each major
14 category of contractual services and each multiple purpose category
15 of contractual services for which appropriations are being
16 proposed.

17
18 b. Each agency head for the departmental estimates, the mayor
19 for the executive budget, and the council for the adopted budget
20 by a resolution adopted with the budget, shall certify that each
21 major category of contractual services is presented as such and
22 that no multiple purpose category contains a major category of
23 contractual services.

24
25 c. For purposes of this section

26 1. the term "major category" shall mean:

27 (a) a programmatic category related to a major service
28 provided by the agency or a major responsibility of the agency
29 regardless of dollar amount; or

30 (b) a programmatic category related to a particular
31 state or federal requirement; or

32 (c) a subcategory of those categories set forth in
33 subparagraph a or b of this paragraph where the dollar amount
34 constitutes a major commitment of city funds; or

1 (d) a category established by the council as a major
2 category pursuant to subdivision f of this section; or

3 (e) a category certified by the mayor as a major
4 category.

5 2. the term "multiple purpose category" shall mean:

6 a. groupings of contractual services for related
7 purposes, none of which individually constitute a major category,
8 but which together facilitate public understanding of contractual
9 spending provided by an agency; or

10 b. a grouping of unrelated contractual services, which
11 individually do not constitute a major category, and which are not
12 appropriately grouped with other contractual spending of the
13 agency.

14 3. the term "contractual services" shall mean technical,
15 consultant or personal services provided to the city through
16 contracts.

17 d. Major categories. Each major category of contractual services
18 shall be accompanied by a detailed description of the programmatic
19 objectives of the category, the number of contracts estimated to
20 be included in the category and the proposed appropriations for
21 that category.

22 e. Multiple purpose categories. All other contractual services
23 shall be aggregated in multiple purpose categories. Each multiple
24 purpose category shall be accompanied by the number of contracts
25 estimated to be included in the category and the supporting
26 schedules identifying the purposes and amounts involved in
27 sufficient detail to allow the council to certify that the category
28 does not contain major categories of contractual services.

29 f. Change of categories. The council may alter any category in
30 the contract budget submitted by the mayor, or change any terms
31

1 and conditions of it. The mayor shall provide sufficient
2 information and technical assistance to allow the council to
3 certify each category as a major or multiple purpose category.
4 The mayor may disapprove any alteration by the council. The
5 mayor's disapproval may be overridden by a two-thirds vote of all
6 of the members of the council.

7
8 g. Adoption of contract budget. The council may increase, decrease
9 add or omit any amount in the contract budget as submitted by the
10 mayor, or change any terms and conditions of the amount in that
11 category. The mayor may disapprove any increase or addition to the
12 amounts in the categories, or any change in any term and condition
13 of the contract budget. The mayor's disapproval may be overridden
14 by a two-thirds vote of all of the members of the council.

15
16 h. Modification of terms and conditions. All spending for
17 contractual services shall be in accordance with the terms and
18 conditions of the contract budget as adopted; provided, however,
19 that during any fiscal year the mayor shall notify the council of
20 any proposed modification of such a term or condition. Within
21 thirty days of the first stated meeting of the council following
22 the receipt of such notice, the council may disapprove the proposed
23 notification.

24
25 Sec. [118.]105. Appropriations for [supplies, materials and
26 equipment] goods, services or construction. Appropriations for
27 the [purchase] procurement of [supplies, materials and equipment]
28 goods, services or construction or the provision of services,
29 utilities, or facilities [required by and to be purchased or
30 provided] by the department of general services for [the account
31 of the various] other agencies and institutions [for which the
32 department of general services is authorized by] in accordance with
33 the authority of the department of general services under the
34 provisions of this charter [to make purchases or provide services,

1 utilities, or facilities] shall be made to the department of
2 general services but shall be segregated under the name of the
3 agency or institution for which they are intended and shall be
4 considered and accounted for as appropriated for such agency or
5 institution. Nothing herein contained shall prevent the
6 designation of part of such appropriations as a general stores
7 account or under other appropriate designation to enable the
8 [service] department of general services to maintain a stock in
9 anticipation of requirements or to provide services, utilities or
10 facilities for joint use by more than one agency or institution.

11
12 Sec. [123.]106. [Budget] Expense budget administration.

13
14 a. Except as otherwise provided by law, no unit of appropriation
15 shall be available for expenditure by any city agency until [the
16 head of the agency has filed with the mayor, the director of
17 management and budget, the comptroller, and the personnel director
18 a schedule] schedules fixing positions and salaries and setting
19 forth other expenses within the units of appropriation are
20 established pursuant to the adopted budget, [and] the
21 administration of which is subject to the provisions of this
22 chapter, the civil service law, and other applicable law.

23
24 b. The mayor shall establish and may modify for each agency (1)
25 quarterly spending allotments for each unit of appropriation and
26 (2) aggregate position and salary limits for each unit of
27 appropriation, which [shall be published in the City Record.]
28 shall be made available for public review upon adequate notice.

29 No agency shall expend any sum in excess of such quarterly spending
30 allotments, or exceed aggregate position and salary limits. The
31 mayor may set aside specified sums as necessary reserves which
32 shall not be included in the quarterly spending allotments until
33 released by the mayor. Each agency shall administer all monies
34 appropriated or available for programs and purposes of the agency

1 in accordance with quarterly allotment plans proposed by the agency
2 and approved or modified by the mayor. Each such plan shall set
3 forth by units of appropriation for the quarter of the fiscal year
4 during which it is to remain in effect: (1) rates of expenditures
5 for personal services and other than personal services; (2)
6 ceilings on the total number of [personnel by job categories]
7 uniformed, civilian and pedagogical employees; and (3) the total
8 amount of funds to be spent or committed by the agency during such
9 quarter.

10
11 c. The mayor shall keep informed during the course of each fiscal
12 year, of the progress of expenditures and the receipt of revenues,
13 and it shall be the duty of all agencies, when requested by the
14 mayor, to supply all information needed for this purpose.

15
16 d. The mayor may assume direct responsibility for the
17 administration of the schedule required to be filed by the agency
18 head pursuant to subsection a of this section when in [his] the
19 mayor's judgment the fiscal condition of the city so requires or
20 when an agency (1) is expending funds in excess of the quarterly
21 spending allotments; or (2) is otherwise not complying with
22 spending allotments or aggregate position and salary limits; or
23 (3) is not maintaining adequate accounts pursuant to requirements
24 of this charter.

25
26 e. Whenever the mayor determines, pursuant to the provisions of
27 this charter or other relevant statutes, that the full amount of
28 any appropriation should not be available for expenditure during
29 the fiscal year, the mayor shall notify the council of such
30 determination and the implications and consequences of those
31 impoundments for service levels and programmatic goals affected.
32 The mayor shall respond in writing to a request by the council for
33 an explanation of why an appropriation should not be expended.
34

1 f. 1. Within thirty days of the adoption of the executive expense
2 budget, the head of each agency responsible for one or more of the
3 services listed in paragraph four of this subdivision shall submit
4 to each borough president, a plan for the allocation within the
5 borough of the personnel and resources appropriated for each such
6 service in the borough.

7
8 2. Within thirty days of receiving such a plan, the borough
9 president may propose a reallocation of the personnel and resources
10 within the borough. Such proposed reallocations shall be
11 implemented by the agency, unless the head of the agency objects,
12 in writing, to the borough president. If such an objection is
13 submitted, the borough president may submit a revised reallocation
14 proposal to the agency head which shall be implemented by the
15 agency head provided that no such modification may increase or
16 decrease the personnel or resources allocated to any community
17 district for such service by more than five percent.

18
19 3. If, during the course of the fiscal year, however, a
20 material reallocation of personnel or resources within a borough
21 is anticipated by an agency head to be necessary for any of the
22 services listed in subdivision four, the agency head shall consult
23 with the borough president prior to the implementation of any such
24 reallocation.

25
26 4. The services covered by this subdivision shall include the
27 following services and any additional services identified for this
28 purpose by the mayor: local parks services, street cleaning and
29 refuse collection, housing code enforcement, highway and street
30 maintenance and repair; sewer maintenance and repair, and the
31 maintenance of public buildings by the department of general
32 services.

33
34 Sec. [124.] 107. Budget modification.

1
2 a. Subject to the quarterly spending allotments and aggregate
3 position and salary limits established pursuant to section one
4 hundred [twenty-three] six, and to other applicable provisions of
5 this charter, of the civil service law and of other law, changes
6 in schedules, within units of appropriation, may be made by the
7 head of each agency. Any such changes shall be [published in the
8 City Record and copies shall be forwarded] reported to the mayor
9 and the comptroller [not less than ten days before] not more than
10 ten days after the effective date thereof[.], and shall be made
11 available for public review upon adequate notice.

12
13 b. The mayor during any fiscal year may transfer part or all of
14 any unit of appropriation to another unit of appropriation, except
15 that when any such transfer (1) shall be from one agency to another
16 or (2) shall result in any unit of appropriation having been
17 increased or decreased by more than five percent or fifty thousand
18 dollars, whichever is greater, from the budget as adopted for such
19 unit of appropriation, the mayor shall notify [the board of
20 estimate and] the council of the proposed action. Within thirty
21 days after the first stated meeting [of each body] of the council
22 following the receipt of such notice, [either the board of estimate
23 or] the council may disapprove the proposed action; provided,
24 however, that the mayor may recommend such a transfer if it is
25 related to an appropriation included in the budget pursuant to
26 section one hundred two only with the concurrence of the relevant
27 borough president; and a borough president may make such a
28 recommendation with regard to such an appropriation if it is
29 concurred in by the mayor and does not include a reduction in an
30 appropriation other than one included in the budget pursuant to
31 section one hundred two on the recommendation of such borough
32 president. Written notice of any transfer pursuant to this
33 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]b. 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.]d. 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.] e. The procedures and required approvals pursuant to sections [one hundred twenty, one hundred twenty-one and one hundred twenty-two,] eighty-one, eighty-two, and eighty-three, 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 except for revenues from federal, state or private sources in regard to the use of which the city has no discretion provided, however, that the mayor

1 shall give notice to the council of the receipt and proposed
2 utilization of any such revenues, or (3) the proposed use by the
3 city of previously unappropriated funds received from any source.
4 Any request by the mayor respecting an amendment to the budget that
5 involves an increase in the budget shall be accompanied by a
6 statement of the source of current revenues or other identifiable
7 and currently available funds required for the payment of such
8 additional amounts.

9
10 Section 108. The council shall be required to publish quarterly
11 accountings of its actual and planned expenditures, in sufficient
12 detail to indicate the positions and their purposes which have been
13 funded, as well as the activities and categories of materials and
14 supplies purchased.

15
16 Sec. [126] 109. General fund. All revenues of the city, of every
17 administration, department, board, office and commission thereof,
18 and of every borough, county and other division of government
19 within the city, from whatsoever source except taxes on real
20 estate, not required by law to be paid into any other fund or
21 account shall be paid into a fund to be termed the "general fund."

22
23 Sec. [130.] 110. Expenditure reports. Any public or private
24 agency, authority, corporation, board or commission which receives
25 city funds and is not otherwise subject to the requirements of
26 section one hundred [twenty-three] six of this chapter shall submit
27 quarterly reports of the expenditure of such funds to the mayor in
28 such form and detail as the mayor may prescribe.

29
30 Sec. [131.] 111. Self-dealing among members of the governing
31 boards of charitable institutions.
32

1 a. Any charitable institution which receives any payment from the
2 New York city charitable institutions budget shall pass and
3 implement by-laws which will:

4 1. Require disclosure to the agency responsible for the
5 administration of charitable institutions budget and approval by
6 such agency of the material terms of any contract or transaction,
7 direct or indirect, between an institution and any member of its
8 governing board, any partnership of which he or she is a member or
9 any corporation in which he or she holds ten per cent or more of
10 the outstanding common stock.

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

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

25
26 b. At the discretion of the agency, any payment or any portion of
27 any payment may be withheld from any institution which has failed
28 to pass and implement such by-laws.

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] The director of city planning shall be [chairman] the chair and a member of the city planning commission and shall serve at the pleasure of the mayor.

b. The director of city planning shall:

1. Advise and assist the mayor, [the board of estimate] the borough presidents 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. Assist the mayor in the preparation of strategic plans, including the preparation of the report provided for in section sixteen concerning the social, economic and environmental health of the city, the strategic policy statement provided for in section eighteen and the ten-year capital strategy provided for in section two hundred fifteen.

7. Appoint a deputy executive director for strategic planning.

8. Make a complete transcript of the public meetings and hearings of the commission available for public inspection free of charge within sixty days after any such meeting or hearing. The

1 director shall also provide a copy of any requested pages of such
2 transcript to any resident or taxpayer at a reasonable fee to cover
3 the costs of copying and, where relevant, mailing.

4 9. Perform such other functions as are assigned to him or her
5 by the mayor or other provisions of law.

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

1 Sec. 192. City planning commission. a. There shall be a
2 city planning commission to consist of the [chairman] chair and
3 [six] twelve other members [to be appointed by the mayor. The
4 appointments shall be made so that there is at least one resident
5 of each borough on the commission.] The mayor shall appoint the
6 chair and six other members of the commission, the president of
7 the council shall appoint one member, and each borough president
8 shall appoint one member. Members shall be chosen for their
9 independence, integrity and civic commitment. Appointments of all
10 members, except for the chair, shall be subject to the advice and
11 consent of the council. For such appointments by officials other
12 than the mayor, the procedure for obtaining the advice and consent
13 of the council shall be the same as the procedure provided for in
14 section thirty-one for appointments of the mayor. Members, except
15 for the chair, shall not be considered regular employees of the
16 city for purposes of chapter sixty-eight. The agency served by the
17 members of the commission shall for purposes of chapter sixty-eight
18 be deemed to be both the commission and the department of city
19 planning. No member, while serving as a member, shall appear
20 directly or indirectly before the department, the commission, or
21 any other city agency for which the conflicts of interest board
22 shall, by rule, determine such appearance creates a conflict of
23 interest with the duties and responsibilities of the member. No
24 firm in which a member has an interest may appear directly or
25 indirectly before the department or commission. For purposes of
26 this section, the terms "agency," "appear," "firm," and "interest"
27 shall be defined as provided in chapter sixty-eight. Except as
28 otherwise provided in section one hundred ninety-one, no member
29 shall hold any other city office. Members other than the
30 [chairman] chair shall be appointed for a term of [eight] five
31 years [. In case of a vacancy in the office of a member other than
32 that of the chairman, the mayor shall appoint a member to serve for
33 the remainder of the unexpired term.]; provided, however, that of
34 the members other than the chair, one member appointed by the mayor

1 and one member appointed by a borough president shall serve for
2 terms to expire on June 30, nineteen hundred ninety-one; one member
3 appointed by the mayor and one member appointed by a borough
4 president shall serve for terms to expire on June 30, nineteen
5 hundred ninety-two; one member appointed by the mayor and one
6 member appointed by a borough president shall serve for terms to
7 expire on June 30, nineteen hundred ninety-three; one member
8 appointed by the mayor and one member appointed by a borough
9 president shall serve for terms to expire on June 30, nineteen
10 hundred ninety-four; and two members appointed by the mayor, the
11 member appointed by the president of the council and one member
12 appointed by a borough president shall serve for terms to expire
13 on June 30, nineteen hundred ninety-five. The borough presidents
14 shall determine by lot the length of the term to be served by the
15 member first appointed by each borough president. The appointing
16 officials shall make their first appointments to the commission on
17 or before March 1, nineteen hundred ninety. The commission members
18 so appointed shall assume office on July 1, nineteen hundred
19 ninety.

20 b. Members of the commission shall serve until their
21 successors have been confirmed. Any vacancy occurring other than
22 by expiration of a term shall be filled by the official who
23 appointed the member in the same manner as the original
24 appointment. A person so appointed shall serve for the unexpired
25 portion of the term of the member succeeded. Terms shall begin on
26 the next date after the expiration date of the preceding term.

27 [b] c. One of the members other than the [chairman] chair shall
28 be designated by the mayor as [vice-chairman] vice-chair and shall
29 serve as [such] vice-chair at the pleasure of the mayor. The
30 [vice-chairman] vice-chair shall possess the powers and perform
31 the duties of the [chairman] chair when the [chairman] chair is
32 absent or while a vacancy exists in the office of [chairman] the
33 chair, and shall at such times serve as director of city planning.

1 d. The city planning commission shall be responsible for the
2 conduct of planning relating to the orderly growth, improvement and
3 future development of the city, including adequate and appropriate
4 resources for the housing, business, industry, transportation,
5 distribution, recreation, culture, comfort, convenience, health and
6 welfare of its population.

7 e. The city planning commission shall oversee implementation
8 of laws that require environmental reviews of actions taken by the
9 city. The commission shall establish by rule procedures for
10 environmental reviews of proposed actions by the city where such
11 reviews are required by law. Such rules shall include procedures
12 for (1) selection of the city agency or agencies that will be
13 responsible for determining whether an environmental impact
14 statement is required in connection with a proposed action and for
15 preparation and filing of any such statement required by law, (2)
16 participation by the city in environmental reviews involving
17 agencies other than city agencies and (3) coordination of
18 environmental review procedures with the land use review procedures
19 set forth in this chapter. The director of city planning and the
20 commissioner of the department of environmental protection shall
21 assign from the staffs of such departments an office of
22 environmental coordination, which shall provide assistance to all
23 city agencies in fulfilling their environmental review
24 responsibilities.

25 f. On December 31, nineteen hundred ninety-two and every four
26 years thereafter, the commission shall file with the mayor, the
27 council, the president of the council, the borough presidents, and
28 the community boards, a zoning and planning report. The report
29 shall include (1) a statement of the planning policy of the
30 commission, which policy shall take into consideration, among other
31 things, the ten-year capital strategy, the four-year capital
32 program, the report on the social, economic and environmental
33 health of the city issued pursuant to section eighteen, the
34 strategic policy statements provided for in section eighteen and

1 plans approved pursuant to section one hundred ninety-seven-a, (2)
2 a summary of the significant plans and studies completed or
3 undertaken by the department of city planning in the preceding four
4 years, (3) an analysis of those portions of the zoning resolution
5 that merit reconsideration in light of the policy of the commission
6 and (4) proposals for implementing the planning policy of the
7 commission whether by amendment of the zoning resolution,
8 development of plans or otherwise.
9

1 Sec. 193. Removal of commission members [by mayor after
2 hearing]. A member of the commission other than the [chairman]
3 chair may be removed by the [mayor] appointing official only upon
4 proof of official misconduct, [or of negligence in] neglect of
5 official duties, [or of] conduct in any manner connected with his
6 or her official duties which tends to discredit his or her office,
7 or [of] mental or physical inability to perform his or her duties[;
8 and before]. Before removal [he], any such member shall receive
9 a copy of the charges and shall be entitled to a hearing [before
10 the mayor and to the assistance of counsel at such hearing] on a
11 record by the office of administrative trials and hearings, which
12 shall make final findings of fact, recommend a decision and submit
13 such findings and recommended decision to the appointing official
14 for final action.

1 Sec. 195. Acquisitions of office space. Acquisitions by the
2 city of office space or existing buildings for office use, whether
3 by purchase, condemnation, exchange or lease, shall be subject to
4 the following review and approval procedure:

5 a. The agency proposing any such acquisition shall file with
6 the department of city planning a notice of intent to acquire. The
7 department of city planning shall send such notice to the community
8 board in which the proposed acquisition is located and all borough
9 presidents.

10 b. Within thirty days of the filing of such notice, the city
11 planning commission shall hold a public hearing on such acquisition
12 and shall approve or disapprove such acquisition. Notice of such
13 hearing shall be published in the City Record not less than ten
14 days in advance of such hearing.

15 c. In reviewing any such acquisition, the commission shall
16 apply the criteria for the location of city facilities provided for
17 in section two hundred and three.

18 d. Within the thirty days provided for commission action
19 pursuant to subdivision b of this section, the commission shall
20 file any approval of such an acquisition with the council. Within
21 twenty days of such filing, the council may by two-thirds vote
22 disapprove such acquisition.

Sec. 196. Affected boards and borough presidents. For purposes of this chapter: the term "affected community board" shall mean the community board for a community district in which land included in a plan or an application pursuant to this chapter is located; the term "affected borough president" shall mean the president of a borough in which land included in such a plan or an application is located; and a borough board shall be deemed "affected" if such a plan or application includes land within two or more community districts within the borough represented by such borough board.

1 Sec. 197-a. Plans. a. [The city planning commission shall be
2 responsible for the conduct of planning relating to the orderly
3 growth and improvement and future development of the city,
4 including adequate and appropriate resources for the housing,
5 business, industry, transportation, distribution, recreation,
6 comfort, convenience, health and welfare of its population.]

7 Plans for the development, growth, and improvement of the city
8 and of its boroughs and community districts may be [initiated]
9 proposed by (1) the mayor, (2) the city planning commission, (3)
10 the department of city planning, (4) a borough president with
11 respect to land located within his or her borough, (5) a borough
12 board with respect to land located within [two or more community
13 districts] its borough, or [(4)] (6) a community board with respect
14 to land located within its community district. A community board
15 [or], borough board or borough president that [initiates] proposes
16 any such plan shall [conduct a public hearing on it and] submit the
17 plan together with a written recommendation to the city planning
18 commission[. Plans initiated by the mayor or the city planning
19 commission shall be referred to the affected community board or
20 boards and, if land located within two or more community districts
21 is included, to the affected borough board or boards for review
22 and recommendation after public hearing] for determinations
23 pursuant to subdivision b of this section. Any such submission may
24 be made by a community board, borough board or borough president
25 only after the board or borough president proposing such a plan has
26 held a public hearing on the plan.

27 b. The city planning commission shall adopt rules
28 establishing minimum standards for the form and content of plans
29 pursuant to this section within a reasonable time period after July
30 1, nineteen hundred ninety. Upon receipt of a plan proposed
31 pursuant to this section by a community board, borough board or
32 borough president, the city planning commission shall, within a
33 reasonable time period, determine whether such plan satisfies the
34 standards established in such rules and is consistent with sound

1 planning policy. If the commission makes such determinations with
2 respect to a plan submitted by a community board, the office of
3 environmental coordination established pursuant to subdivision e
4 of section one hundred ninety-two, together with such other city
5 agency or entity as may be required pursuant to law or rule, shall
6 prepare or cause to be prepared any environmental analysis of such
7 plan required by law to enable the city planning commission and the
8 council to act on the plan pursuant to subdivision d of this
9 section. If the city planning commission makes the determinations
10 provided for in this subdivision with respect to a plan, such plan
11 shall be referred to the department of city planning for
12 circulation and review pursuant to subdivisions c and d of this
13 section.

14 c. All plans proposed pursuant to this section shall be
15 referred to the department of city planning for circulation by the
16 department to all affected community boards, all affected borough
17 boards and all affected borough presidents for review and written
18 recommendation, except that any such plan need not be circulated
19 to the agency or official that proposed such plan. All affected
20 community boards and borough boards to which such a plan is
21 referred shall hold a public hearing on any such plan, except that
22 in the case of a plan that includes an entire borough or land in
23 more than one borough, only one public hearing need be held in each
24 affected borough. The city planning commission shall establish by
25 rule the procedures and schedule for review of such plans,
26 consistent with the provisions of this section. A community board
27 or borough board may review a plan which does not involve land so
28 located as to require its review if in its judgment the plan
29 significantly affects the welfare of the district or borough served
30 by such board. In such a case the plan and any [advice] written
31 recommendations relative thereto [submitted by any officer or
32 agency] shall be made available to such board on request. Such
33 board may hold its own public hearing on such plan if it desires
34 and may submit its own written recommendations in regard thereto

1 to the city planning commission. [The city planning commission
2 shall prepare and, with the approval of the mayor, establish the
3 procedures and schedule for review and public hearings by
4 community boards and borough boards on any plans initiated by the
5 mayor or the city planning commission which involve matters of
6 city-wide concern. b. The]

7 d. Within a reasonable time period following review and
8 recommendation of a plan pursuant to subdivision c of this
9 section, the city planning commission shall (1) review [any] such
10 plan [initiated pursuant to subdivision a of this section] , (2)
11 hold a public hearing on [it] such plan and [recommend to the
12 board of estimate approval, modification or disapproval of the] (3)
13 by resolution approve, approve with modifications or disapprove
14 such plan. [The board of estimate shall hold a public hearing on
15 the plan and the recommendation of the city planning commission,
16 and thereafter take final action of approval, modification or
17 disapproval. The board] If the city planning commission has
18 approved a plan with or without modifications, such plan shall be
19 subject to review and action by the council pursuant to section
20 one hundred ninety-seven-d. The council may by a [three-fourths]
21 two-thirds vote [override any action of the city planning
22 commission] approve a plan which the city planning commission
23 disapproved [a] or on which the commission has failed to act if the
24 mayor so requests. Upon the filing by the mayor of such a request
25 with the commission and the council, the commission shall within
26 five days file with the council a copy of its decision together
27 with a copy of the plan. [If the city planning commission has
28 approved a plan with or without modification, the board of estimate
29 may take final action on it by majority vote.] Copies of approved
30 plans shall be filed with the city clerk, the department of city
31 planning, [and every] the affected borough presidents, [and] the
32 affected borough boards and the affected community boards
33 [affected].

1 Sec. 197-b. Notification [to community boards] of plans and
2 proposals.

3 a. Advance [notification] notice of all preliminary and final
4 plans of public agencies and public benefit corporations or of
5 private agencies, entities or developers filed with the city that
6 relate to the use, development or improvement of land subject to
7 city regulation shall be given to the affected community board or
8 boards and the office of the affected borough president, provided
9 that exceptions may be made in matters of no appreciable public
10 concern by agency rule.

11 b. Copies of (1) all requests for proposals and other
12 solicitations of proposals issued by or on behalf of the city,
13 whether or not issued by an agency, a local development corporation
14 or other entity, and (2) all letters of intent executed by or on
15 behalf of the city, whether or not executed by an agency, a local
16 development corporation or other entity, that relate to the private
17 use or the disposition of city-owned land, shall be conveyed to the
18 community boards where such land is located and the office of the
19 borough president where such land is located promptly after
20 issuance or execution.

1 Sec. 197-c. Uniform land use review procedure.

2 a. Except as otherwise provided in this charter, [proposals
3 and] applications by any person or agency for changes, approvals,
4 contracts, consents, permits or authorization thereof, respecting
5 the use, development or improvement of real property subject to
6 city regulation shall be reviewed pursuant to a uniform review
7 procedure in the following categories:

8 (1) [The] Changes in the city map pursuant to section one
9 hundred ninety-eight and section one hundred ninety-nine;

10 (2) [Map] Maps of [a subdivision or platting] subdivisions
11 or plattings of land into streets, avenues or public
12 places pursuant to section two hundred two;

13 (3) Designations of zoning districts under the zoning
14 resolution, including conversion from one land use to
15 another land use, pursuant to [section] sections two
16 hundred and two hundred one;

17 (4) Special permits within the jurisdiction of the city
18 planning commission under the zoning resolution, pursuant
19 to [section] sections two hundred and two hundred one;

20 (5) Site selection for capital projects pursuant to section
21 two hundred [twenty-seven] eighteen;

22 (6) [Franchises and revocable] Revocable consents [involving
23 residential, industrial, commercial, transportation or
24 community facility projects pursuant to chapter fourteen]
25 pursuant to section three hundred sixty-four, requests
26 for proposals and other solicitations for franchises
27 pursuant to section three hundred sixty-three, and major
28 concessions as defined pursuant to section three hundred
29 seventy-four;

30 (7) Improvements in real property the costs of which are
31 payable other than by the city pursuant to section two
32 hundred [twenty-nine] twenty;

33 (8) Housing and urban renewal plans and projects pursuant to
34 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] including the [proposed acquisition,] sale or lease of land under water pursuant to [section sixty-seven,] section sixteen hundred [three] two, chapter fifteen, and other applicable provisions of law; [and,]

(11) Acquisition by the city of real property (other than the acquisition of office space for office use or a building for office use), including acquisition by purchase, condemnation, exchange or lease and including the acquisition of land under water pursuant to section sixteen hundred two, chapter fifteen, and other applicable provisions of law; and

(12) Such other matters involving the use, development or improvement of property as are [specified by the board of estimate upon recommendation of] proposed by the city planning commission and enacted by the council pursuant to local law.

b. [Each proposal or application] The following documents shall be filed with the department of city planning [, which]: (1) applications under this section, (2) any amendments thereto that are made prior to approval of such applications pursuant to this chapter, (3) any written information submitted by an applicant for purposes of determining whether an environmental impact statement will be required by law and (4) documents or records intended to define or substantially redefine the overall scope of issues to be addressed in any draft environmental impact statement required by law. The department of city planning shall forward a copy of any materials it receives pursuant to this subdivision (whether or not such materials have been certified as complete) within five days to [the] each affected borough president,

1 community board [for each community district in which the land
2 involved, or any part thereof, is located, and to the] or borough
3 board [if the proposal or application involves land located in two
4 or more districts in a borough].

5 c. The department of city planning shall be responsible for
6 certifying that applications pursuant to subdivision a of this
7 section are complete and ready to proceed through the uniform land
8 use review procedure provided for in this section. Upon
9 certification of an application, the department shall give notice
10 of such certification to the council. If an application under this
11 section has not been certified within six months after filing, both
12 the applicant and, if the land use proposed in an application is
13 consistent with the land use policy or strategic policy statement
14 of the affected borough president, the affected borough president
15 shall have the right at any time thereafter to appeal to the city
16 planning commission for certification. The commission shall
17 promptly, but in any event within sixty days of the filing of such
18 an appeal, either certify the application or state in writing what
19 further information is necessary to complete the application. If
20 such an appeal is brought by an affected borough president, the
21 affirmative vote of five members of the commission shall be
22 sufficient to certify the application.

23 d. If a meeting involving a city agency and an applicant is
24 convened to define or substantially redefine the overall scope
25 of issues to be addressed in any draft environmental impact
26 statement required by law for an application subject to review
27 under this section, each affected community board and each affected
28 borough president shall receive advance notice of such meeting, and
29 each shall have the right to send one representative to the
30 meeting.

31 e. Each [such] affected community board shall, not later than
32 sixty days after receipt of [the proposal or] an application that
33 has been certified pursuant to subdivision c of this section,
34 [either]

1 (1) notify the public of the [proposal or] application in a
2 manner specified by the city planning commission pursuant
3 to subdivision [g] k of this section, and

4 (2) either (a) conduct a public hearing thereon and [(3)]
5 prepare and submit a written recommendation directly to
6 the city planning commission and to the affected borough
7 president or [waive the] (b) where authorized by this
8 charter, submit a written waiver of the right to conduct
9 [of] a public hearing and [the preparation of] to submit
10 such written recommendations [where authorized by this
11 charter] to the commission and the affected borough
12 president.

13 [d] f. A copy of a recommendation or waiver by a community
14 board pursuant to subdivision [c] e of this section that involves
15 land located within two or more community districts in a borough
16 shall also be filed with the affected borough board within the same
17 time period as specified in subdivision [c] e. Not later than
18 thirty days after the filing of a recommendation or waiver with the
19 borough board by every affected community board [in which land
20 involved is located], or after the expiration of the time allowed
21 for such community boards to act, the borough board may hold a
22 public hearing on the [proposal or] application and any such
23 recommendations and submit a written recommendation or waiver
24 thereof to the city planning commission.

25 [e] g. Not later than thirty days after the filing of a
26 recommendation or waiver with the borough president by all affected
27 community boards, or, if any affected community board shall fail
28 to act, thirty days after the expiration of the time allowed for
29 such community board to act, the borough president shall submit
30 a written recommendation or waiver thereof to the city planning
31 commission.

32 h. Not later than sixty days after expiration of time allowed
33 for the filing of a recommendation or waiver with [it] the city
34 planning commission by a [community board or borough board or the

1 latest filing if there is more than one within the time allowed]
2 borough president, the [city planning] commission shall approve,
3 approve with modifications, or disapprove the [proposal or]
4 application [and shall file its decision with the board of
5 estimate]. Any such approval or approval with modifications of the
6 commission shall require the affirmative vote of seven of the
7 members; except that the affirmative vote of nine members shall be
8 required to approve or approve with modifications an application,
9 pursuant to paragraph (5), (10) or (11) of subdivision a of this
10 section relating to a new city facility if the affected borough
11 president recommends against approval of such application pursuant
12 to subdivision g of this section and has proposed an alternative
13 location in the same borough for such new city facility pursuant
14 to subdivision f or g of section two hundred four. The [city
15 planning] commission shall conduct a public hearing on [any
16 proposal or application on which a hearing was not held by a
17 community board or borough board and on any other proposal or
18 application on which a hearing is required by law. The commission
19 may waive a public hearing if a community board or borough board
20 held a public hearing after adequate notice] all applications that
21 are subject to review and approval by the commission pursuant to
22 this section. Prior to taking any action pursuant to this
23 subdivision on a matter involving the siting of a capital project,
24 the sale, lease, exchange or other disposition or acquisition of
25 real property, a request for a proposal or other solicitation for
26 a franchise or a revocable consent, the city planning commission
27 [shall] may obtain a report from the office of management and
28 budget[,] or the department of general services [or the bureau of
29 franchises], as appropriate. Any action of the city planning
30 commission which modifies or disapproves a written recommendation
31 of the community board, borough president or borough board shall
32 be accompanied by a written explanation of its reason for such
33 action.

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

7 g] i. The city planning commission [, after a public hearing,]
8 shall establish (1) rules providing guidelines, minimum standards,
9 and procedural requirements for community boards, borough
10 presidents, borough boards and the commission in the exercise of
11 their duties and responsibilities pursuant to this section, (2)
12 minimum standards for certification of applications pursuant to
13 subdivision c of this section, and (3) specific time periods for
14 review of applications pursuant to this section prior to
15 certification.

16 [h] j. If a community board, borough president or borough
17 board [, or the city planning commission] fails or waives its right
18 to act within the time limits for review pursuant to subdivisions
19 [c, d and] e, f and g of this section, the [proposal or]
20 application [is] shall be referred to the next level of review.
21 If the [board of estimate] city planning commission fails to act
22 on an application within the time limit specified in subdivision
23 [f] h of this section, [any prior decision of the city planning
24 commission with respect to the land use impact and implications is
25 final] the application shall be deemed to have been denied unless
26 the application is pursuant to paragraph (3) or (4) of subdivision
27 a of this section, in which case the application may be forwarded
28 to the council for review pursuant to the provisions of subdivision
29 b of section two hundred, if applicable, or is pursuant to
30 paragraph (8) of subdivision a of this section, in which case the
31 application shall be referred to the council for review and action
32 as provided by state law.

33 [i] k. Notice of any hearing on a [proposal or] an application
34 by the city planning commission or [board of estimate] the council

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.

1. The commission shall establish by rule procedures for advance posting of notices of commission hearings on applications. Such notices shall be posted at the location of the land involved in such manner and with respect to such types of applications as the commission deems appropriate. Failure to post any such notice shall not affect or impair the validity of any decision of the city planning commission, the council or other agency or official pursuant to this chapter.

[j] m. A community or borough board may review an [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] upon the request of such board, and such board may hold its own public hearing thereon if it so desires and may submit its own written recommendations in regard thereto to the city planning commission for consideration at any time before the city planning commission takes action thereon.

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

2 a. Notwithstanding the provisions of section eleven hundred
3 fifty-two or any other section to the contrary, chapter eight of
4 this charter shall not apply to the sale, lease, exchange or other
5 disposition of real property of the city of New York under the
6 jurisdiction of the municipal service administration.

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

10 Sec. 197-d. Council Review. a. The city planning commission
11 shall file with the council and with the affected borough president
12 a copy of its decisions to approve or approve with modifications
13 (1) all matters described in subdivision a of section one hundred
14 ninety-seven-c, (2) plans pursuant to section one hundred ninety-
15 seven-a, and (3) changes in the text of the zoning resolution
16 pursuant to sections two hundred and two hundred and one. Any such
17 filing of a decision pursuant to section one hundred ninety-seven-
18 c shall be completed prior to the expiration of the sixty-day
19 period for action by the commission. Any such filing with the
20 council shall include copies of all written recommendations of
21 community boards, borough boards and borough presidents with
22 respect to the decision being filed.

23 b. The following decisions filed with the council pursuant
24 to subdivision a of this section, shall be subject to review and
25 action by the council:

26 (1) any decision of the city planning commission to
27 approve or approve with modifications a matter described in
28 paragraph (3) or (8) of subdivision a of section one hundred
29 ninety-seven-c, a disposition of residential real property (as
30 defined in this paragraph) pursuant to clause (10) of subdivision
31 a of section one hundred ninety-seven-c (except for dispositions
32 to companies that have been organized exclusively to develop
33 housing projects for persons of low income), a plan pursuant to
34 section one hundred ninety-seven-a, or a change in the text of the

1 zoning resolution pursuant to sections two hundred or two hundred
2 and one. For purposes of this section, residential real property
3 shall mean real property improved by structures, whether or not
4 occupied, built for or converted to a use which is primarily
5 residential, but shall not include property subsequently converted
6 to non-residential use;

7 (2) any other decision of the city planning
8 commission to approve or approve with modifications a matter
9 described in subdivision a of section one hundred ninety-seven-c,
10 if (i) both an affected community board (after holding a public
11 hearing) and the affected borough president, within the time
12 periods allotted for their reviews pursuant to section one hundred
13 ninety-seven-c, have recommended in writing against approval and
14 (ii) the affected borough president, within five days of receiving
15 a copy of the decision of the commission, files with the
16 commission and the council a written objection to the decision;
17 and

18 (3) any other decision of the city planning commission
19 to approve or approve with modifications a matter described in
20 subdivision a of section one hundred ninety-seven-c, if within
21 twenty days of the filing of such decision pursuant to subdivision
22 a of this section, the council resolves by majority vote of the
23 council as a whole to review the decision of the commission.

24 c. Within fifty days of the filing with the council pursuant
25 to subdivision a of this section of any decision of the city
26 planning commission which pursuant to subdivision b of this section
27 is subject to review by the council, the council shall hold a
28 public hearing, after giving public notice not less than five days
29 in advance of such hearing, and the council, within such fifty
30 days, shall take final action on the decision. A majority vote of
31 the council as a whole shall be required to approve, approve with
32 modifications or disapprove such a decision. If, within the time
33 period provided for in this subdivision or, if applicable, in
34 subdivision d of this section, the council fails to act or fails

1 to act by the required vote on a decision of the city planning
2 commission subject to council review pursuant to subdivision b of
3 this section, the council shall be deemed to have approved the
4 decision of the commission.

5 d. The council shall not approve with modifications a
6 commission decision if the commission has determined pursuant to
7 this subdivision that additional review of the modification is
8 required. Prior to approving such a decision of the commission
9 with modifications, the council shall file the text of any such
10 proposed modifications with the commission. Within fifteen days
11 of such filing, the commission shall file with the council a
12 written statement indicating whether such proposed modifications
13 are of such significance that additional review of environmental
14 issues or additional review pursuant to section one hundred ninety-
15 seven-c is required. If no additional review is required, the
16 commission may include in such statement its advisory
17 recommendation concerning the proposed modification, together with
18 any proposed amendments to the proposed modification. The council
19 may thereafter approve such proposed modifications, with or without
20 the amendments proposed by the commission. The time period for
21 council action shall be tolled during such fifteen-day period;
22 provided, however, that proposed modifications may be referred to
23 the commission pursuant to this subdivision only once with respect
24 to each application or group of related applications under review
25 by the council.

26 e. All actions of the council pursuant to this section shall
27 be filed by the council with the mayor prior to the expiration of
28 the time periods for council action provided for in subdivisions
29 c and d of this section. Actions of the council pursuant to this
30 section shall be final unless the mayor within five days of
31 receiving a filing with respect to such an action of the council
32 files with the council a written disapproval of the action. Any
33 mayoral disapproval under this subdivision shall be subject to
34 override by a two-thirds vote of the council as a whole within ten

1 days of such filing by the mayor.

2 f. The mayor shall have the right to file a written
3 disapproval of any approval deemed to have occurred pursuant to
4 subdivision c of this section as a result of a failure of the
5 council to act or to act by the required vote. Any such written
6 disapproval must be filed within five days of the expiration of the
7 time period for action by the council under subdivisions c and d
8 of this section. Any mayoral disapproval under this subdivision
9 shall be subject to override by a two-thirds vote of the council
10 as a whole within ten days of such filing by the mayor.

11 g. If a decision of the commission approving an
12 application is not subject to council review pursuant to paragraph
13 1 of subdivision b of this section and is not made subject to
14 council review pursuant to paragraph 2 or 3 of subdivision b of
15 this section, the mayor may nonetheless file with the council a
16 written objection to such decision of the commission within five
17 days of the expiration of time for the council to act under
18 paragraph 3 of subdivision b of this section. Any mayoral
19 objection under this subdivision shall be subject to override by
20 a two-thirds vote of the council as a whole within ten days of such
21 filing by the mayor.

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

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

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

1 Sec. 199. Projects and changes in city map. a. No
2 improvement or project affecting the city map and no addition to
3 or change in the city map shall be authorized otherwise than as
4 provided in this charter.
5 b. The review of any proposed addition to or change in the
6 city map initiated by or referred to the city planning commission
7 shall be made pursuant to section one hundred ninety-seven-c
8 [except that if the city planning commission (1) does not recommend
9 approval or recommends a modification of the proposed addition to
10 or change in the city map which is not acceptable to the board of
11 estimate or (2) fails to act within the time limit specified in
12 subdivision e of section one hundred ninety-seven-c, the board of
13 estimate nevertheless may approve or modify the proposed addition
14 to or change in the city map by a three-fourths vote] and section
15 one hundred ninety-seven-d.

1 Sec. 200. Zoning [regulations] resolution. a. Except as
2 provided in subdivision b, any existing resolution or regulation
3 of the council, the board of estimate or of the city planning
4 commission to regulate and limit the height and bulk of buildings,
5 to regulate and determine the area of yards, courts and other open
6 spaces, to regulate density of population or to regulate and
7 restrict the locations of trades and industries and location of
8 buildings designed for specific uses or creating districts for any
9 such purpose, including any such regulation which provides that the
10 board of standards and appeals may determine and vary the
11 application of such resolutions or regulations in harmony with
12 their general purpose and intent and in accordance with general or
13 specific rules contained in such regulations, may be amended,
14 repealed or added to only in the following manner:

15 1. The city planning commission may upon its own initiative at
16 any time or upon application as provided in section two hundred
17 one, adopt a resolution [for any such purpose] to amend the text
18 of the zoning resolution subject to the limitations provided by
19 law. Before adopting any such resolution, the commission shall
20 notify any community board or borough board affected by the
21 resolution and shall afford persons interested an opportunity to
22 be heard at a time and place to be specified in a notice of hearing
23 to be published in the City Record for the ten days of publication
24 of the City Record immediately prior thereto setting forth in
25 general terms the nature of the proposed resolution and a statement
26 of the place at which the entire resolution may be examined. [Any
27 such resolution shall be filed with the secretary of the board of
28 estimate within five days from the day of its adoption.]

29 2. [Approval, disapproval or modification by the board of
30 estimate of such a] Any resolution by the commission [recommending]
31 approving a change in the text of the zoning resolution [must occur
32 within sixty days from the date of filing of the resolution with
33 the board. In case the board shall fail to act on such affirmative
34 resolution within such period of sixty days, such change shall be

1 deemed approved and effective on the sixty-first day after the date
2 of filing unless a protest of owners of affected property shall
3 have been filed in accordance with the provisions of paragraph
4 three] shall be subject to review and approval by the council
5 pursuant to section one hundred ninety-seven-d. Any resolution for
6 a zoning text change which the mayor shall have certified to the
7 council [planning commission] as necessary, and which has been
8 disapproved by the commission, may be adopted by the [board of
9 estimate] council by a [three-fourths] two-thirds vote and, after
10 notice to the parties affected, a public hearing. The [foregoing
11 limitation of sixty days shall be inapplicable to such an adoption
12 and the] council shall act upon such resolution within fifty days
13 of the filing of the certification of the mayor with the council.
14 The change shall become effective [at a time fixed] upon approval
15 by the [board of estimate] council.

16 3. In case a protest against such a proposed resolution
17 approved by the city planning commission shall have been presented
18 to the [secretary of the board of estimate] city clerk within
19 thirty days from the date of the filing of such resolution with the
20 [board] council, duly signed and acknowledged by the owners of
21 twenty per cent or more of the area of:

- 22 (1) the land included in changes proposed in such proposed
23 resolution, or
- 24 (2) the land immediately adjacent extending one hundred feet
25 therefrom, or
- 26 (3) the land, if any, directly opposite thereto extending
27 one hundred feet from the street frontage of such
28 opposite land,

29 such resolution shall not be effective after the filing of such
30 protest unless approved by the [board of estimate, either in the
31 form in which it was filed or as modified by the board,] council
32 by a three-fourths vote of the [board] council within one hundred
33 eighty days after the filing of said resolution with the [secretary
34 of the board of estimate] city clerk. The effective date of such

1 resolution, if so approved, shall be the date of such approval.
2 A protest duly filed as herein provided may be withdrawn at any
3 time within sixty days from the date of the filing of such
4 resolution.

5 b. Designations of zoning districts under the zoning resolution
6 and the issuance of special permits which under the terms of the
7 zoning resolution are within the jurisdiction of the city planning
8 commission shall [conform] be subject to review and approval
9 pursuant to the procedures provided in section one hundred
10 ninety-seven-c and section one hundred ninety-seven-d, except that
11 whenever the city planning commission has not recommended approval
12 of a proposed change in the designation of a zoning district or the
13 issuance of a special permit under the zoning resolution or has
14 failed to act on such a matter within the time specified in section
15 one hundred ninety-seven-c, the [board of estimate] council by a
16 [three-fourths] two-thirds vote may approve such change or the
17 issuance of such permit only if the mayor shall have certified to
18 the [city planning commission] council that such change or issuance
19 is necessary. The council shall act upon such designation or permit
20 within fifty days of the filing of the certification of the mayor
21 with the council.

1 Sec. 201. Applications for zoning changes and special permits.

2 a. Applications for changes in the zoning [resolutions or
3 regulations or for the issuance of special permits within the
4 jurisdiction of the city planning commission under the zoning]
5 resolution may be filed by any taxpayer, community board, [or]
6 borough board, borough president, by the mayor or by the land use
7 committee of the council if two-thirds of the members of the
8 committee shall have voted to approve such filing with the city
9 planning commission. [For] All such applications involving changes
10 in the designation of zoning districts [or the issuance of special
11 permits] under the zoning resolution[, the] shall be subject to
12 review and [hearing procedure in] approval pursuant to section one
13 hundred ninety-seven-c and one hundred ninety-seven-d, [as modified
14 by subdivision b of section two hundred, shall be applicable.]
15 For applications involving other changes in zoning resolutions and
16 regulations, the commission prior to taking action upon any such
17 application shall refer it to the affected community boards or
18 borough boards for a public hearing and recommendation.

19 b. Applications for special permits within the jurisdiction
20 of the city planning commission under the zoning resolution may be
21 filed by any person or agency. All such applications for the
22 issuance of special permits shall be subject to review and approval
23 pursuant to sections one hundred ninety-seven-c and section one
24 hundred ninety-seven-d.

1 Sec. 202. Platting of land and dedication of streets and
2 public places. a. No map of a subdivision or platting of land
3 into streets, avenues or public places and blocks within the
4 limits of the city shall be received for filing in the office in
5 which instruments affecting real property are required to be
6 recorded in the county in which the land is situated, unless such
7 map shall have been [submitted to the board of estimate and
8 approved by such board, after transmittal to the city planning
9 commission for report, by the same procedure as provided in
10 subdivision b of section one hundred ninety-nine for changes in
11 the city map] reviewed and approved pursuant to section one hundred
12 ninety-seven-c and, if applicable, section one hundred ninety-
13 seven-d. If such map is disapproved [by the board of estimate, the
14 secretary of the board] , the chair of the city planning commission
15 shall certify such fact in writing upon such map, and such map
16 shall be received only for record without such approval.

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

1 Sec. 203. Criteria for location of city facilities. a.
2 Not later than July 1, nineteen hundred ninety, the mayor, after
3 consulting with each of the borough presidents, shall file with the
4 city planning commission proposed rules establishing criteria for
5 (1) the location of new city facilities and (2) the significant
6 expansion, closing or significant reduction in size or capacity for
7 service delivery of existing facilities. The criteria shall be
8 designed to further the fair distribution among communities of the
9 burdens and benefits associated with city facilities, consistent
10 with community needs for services and efficient and cost effective
11 delivery of services and with due regard for the social and
12 economic impacts of such facilities upon the areas surrounding the
13 sites. Not later than thirty days after the filing of such
14 proposed rules, the city planning commission shall publish a notice
15 of proposed rule making under section one thousand forty-three with
16 regard to such rules, as proposed by the mayor or as proposed to
17 be modified by the commission. Promptly thereafter, the commission
18 shall approve or approve with modifications the rules and shall
19 file the rules as approved with the council.

20 b. At any time after the adoption of such criteria, the
21 mayor, after consulting with the borough presidents, may submit to
22 the city planning commission proposed amendments to the rules. Not
23 later than thirty days after the filing of such proposed
24 amendments, the city planning commission shall publish a notice of
25 proposed rule making under section one thousand forty-three with
26 regard to such amendments, as proposed by the mayor or as proposed
27 to be modified by the commission. Promptly thereafter, the
28 commission shall approve, approve with modifications or determine
29 not to approve the amendments and shall file any approved amended
30 rules with the council.

31 c. For purposes of this chapter, "city facility" shall mean
32 a facility used or occupied or to be used or occupied to meet city
33 needs that is located on real property owned or leased by the city
34 or is operated by the city or pursuant to a written agreement on
35 behalf of the city.

1 Sec. 204. Citywide statement of needs. a. Each year not
2 later than November 15, the mayor shall submit to the council,
3 borough presidents, borough boards and community boards a citywide
4 statement of needs concerning city facilities prepared in
5 accordance with the criteria established pursuant to section two
6 hundred three. Copies of the statement shall also be made
7 available to the public in the main branch of the public library
8 in each borough. The statement shall identify by agency and
9 program: (1) all new city facilities and all significant
10 expansions of city facilities for which the mayor or an agency
11 intends to make or propose an expenditure or to select or propose
12 a site during the ensuing two fiscal years and (2) all city
13 facilities which the city plans to close or to reduce significantly
14 in size or in capacity for service delivery during the ensuing two
15 fiscal years.

16 b. With respect to the city facilities referred to in clause
17 (1) of subdivision a of this section, the statement of needs shall
18 describe for each proposed new city facility or significant
19 expansion: (1) the public purpose to be served thereby, (2) the
20 size and nature of the facility, (3) the proposed location by
21 borough and, if practicable, by community district or group of
22 community districts, and (4) the specific criteria to be used in
23 locating the new facility or expansion.

24 c. With respect to the city facilities referred to in clause
25 (2) of subdivision a of this section, the statement of needs shall
26 describe with respect to each such city facility: (1) the reasons
27 for such proposed closing or reduction, (2) the location, and (3)
28 the specific criteria for selecting the city facility for closure
29 or for reduction in size or capacity for service delivery.

30 d. The statement of needs shall be accompanied by a map
31 together with explanatory text, indicating (1) the location and
32 current use of all city-owned real property, (2) all final
33 commitments relating to the disposition or future use of city-
34 owned real property, including assignments by the department of

1 general services pursuant to clause (b) of subdivision three of
2 section sixteen hundred two and (3) to the extent such information
3 is available to the city, the location of health and social service
4 facilities operated by the state of New York or the federal
5 government or pursuant to written agreement on behalf of the state
6 or the federal government. Information which can be presented most
7 effectively in text may be presented in this manner. In addition
8 to being transmitted with the statement of needs pursuant to
9 subdivision a of this section, such map shall be kept on file with
10 the department of city planning and shall be available for public
11 inspection and copying. The map shall be updated on at least an
12 annual basis.

13 e. Preparation of the statement of needs. (1) Annually on
14 such date as the mayor shall direct, each agency shall submit to
15 the mayor a statement containing all the information required to
16 be included in the statement of needs for the ensuing two fiscal
17 years pursuant to subdivisions a, b and c of this section that
18 relates to the plans, jurisdiction and responsibility of such
19 agency. Such statements shall be known as the departmental
20 statements of need for city facilities. In preparing such
21 departmental statements of needs, each agency shall review and
22 consider the district needs statements submitted by community
23 boards pursuant to paragraph 10 of subdivision d of section twenty
24 eight hundred and the statements of budget priorities submitted by
25 the community boards pursuant to section sixty-one.

26 (2) The mayor, assisted by the department of city planning
27 and the department of general services, shall review such
28 departmental statements of need and use them to prepare the
29 statement of needs. In preparing the statement of needs, the mayor
30 shall apply the criteria established pursuant to section two
31 hundred three.

32 f. Upon receipt of the statement of needs pursuant to
33 subdivision a of this section, each community board and borough
34 president shall review the statement of needs. Each community board

1 shall make the statement of needs available to the public and
2 conduct a public hearing on the statement of needs. Each community
3 board and borough president shall have the right to submit comments
4 on the statement of needs to the department of city planning within
5 ninety days of receipt of the statement. Each borough president
6 shall have the right, within ninety days of receipt of the
7 statement of needs, to submit a written statement to the mayor
8 proposing locations for any new city facilities to be located in
9 his or her borough pursuant to the statement of needs. All such
10 locations proposed by a borough president shall be located in his
11 or her borough and shall be certified by the borough president as
12 being consistent with the specific criteria for location of city
13 facilities contained in the statement of needs and with the
14 criteria established pursuant to section two hundred three. Each
15 city agency shall consider such written statements in taking
16 actions with respect to matters included in the statement of needs.

17 g. Whenever an application involving a new city facility is
18 submitted to the department of city planning pursuant to paragraph
19 (5), (10) or (11) of subdivision a of section one hundred ninety-
20 seven-c, the applicant shall include as part of the application a
21 statement of (1) how the proposed action satisfies the criteria for
22 location of city facilities established pursuant to section two
23 hundred three, (2) whether the proposed action is consistent with
24 the most recent statement of needs and (3) whether the proposed
25 action is consistent with any written statements or comments
26 submitted by borough presidents and community boards in response
27 to the statement of needs. If the proposed action is not
28 consistent with the criteria for location of city facilities, the
29 statement of needs, or any such written statements or comments
30 submitted in response to the statement of needs, the agency shall
31 include as part of its application a statement of the reasons for
32 any such inconsistencies. If the proposed new facility is not
33 referred to in the statement of needs, the applicant shall submit
34 to the affected borough president a description of the public

1 purpose to be served by the city facility, its proposed location,
2 the appropriation (if any) that the agency intends to use in
3 connection with the facility, the size and nature of the facility
4 and the specific criteria for the location of the facility. The
5 affected borough president shall have the right, within thirty days
6 of the submission of such description, to propose an alternative
7 location in his or her borough for the proposed city facility,
8 provided that the borough president shall certify that the
9 alternative location satisfies the criteria for location of city
10 facilities under section two hundred three and the specific
11 criteria for locating the facility in the statement of needs. The
12 application for the proposed site selection, disposition or
13 acquisition shall not be certified and shall not be reviewed
14 pursuant to section one hundred ninety-seven-c until at least
15 thirty days after the submission of such information to the
16 affected borough president. A borough president may elect to waive
17 the right to such thirty-day review period.

18 h. The mayor's management report, prepared pursuant to
19 section twelve, shall include a review of the implementation of
20 the statement of needs. Such review shall consist of (1) a list
21 of the proposed actions in the statement of needs that have been
22 implemented and of those proposed actions that have not been
23 implemented and (2) a description of the proposed actions in the
24 statement of needs which have been implemented in a manner
25 significantly different from what was proposed in the statement of
26 needs and the reasons therefor.

CHAPTER 9

CAPITAL PROJECTS AND BUDGET

Sec. [211.] 210. 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 other project allowed to be financed by the local finance law, with the approval of the mayor and the comptroller.

1 (f) Any combination of the above.

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

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

11 4. The term "scope of project" or "proposed scope of project"
12 shall mean a [detailed plan prepared for] description of a capital
13 project included in the capital budget that contains specific
14 guidelines [within general standards] for the design and
15 implementation of such project consistent with the standards for
16 the appropriate category of capital projects and includes each of
17 the following items of information which are relevant to the
18 capital project involved:

19 (a) Purposes and public to be served;

20 (b) Programs to be conducted in the facility ;

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

22 (d)] (c) Gross and net amounts of space and bulk for any
23 building or structure and for areas for different functions and
24 activities;

25 [(e)] (d) Identification of required architectural, engineering
26 or other consultants and estimated fees for such consultants;

27 [(f)] (e) [Schedule of] Estimated completion dates for scope,
28 design and construction;

29 [(g)] (f) Total estimated project costs, including costs for
30 site acquisition, preparation and tenant relocation, design,
31 construction and equipment;

32 [(h)] (g) Estimated expenditures for the project for each fiscal
33 year until its completion;

1 [(i)] (h) Estimated annual costs to operate programs within the
2 facility when fully staffed and to maintain the facility; and,

3 [(j)] (i) Such other information as shall be required by the
4 mayor or by resolution of the [board of estimate] council.

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

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

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

18 8. The term "real property" shall include all lands and
19 improvements, lands under water, water front property, the water
20 of any lake, pond or stream, all easements and hereditament,
21 corporeal or incorporeal, and every estate, interest and right,
22 legal or equitable, in lands or water, and right, interest,
23 privilege, easement and franchise relating to the same, including
24 terms for years and liens by way of judgment, mortgage or
25 otherwise.

26 [9. The term "assessable improvement fund" shall mean the fund
27 established pursuant to section three hundred.]

28
29 [b. Unless otherwise provided in the capital budget, the cost and
30 expense of the physical improvements or the acquisition of the real
31 property for physical improvements contained in item (d) of
32 subdivision one of paragraph a of this section shall be paid
33 directly or indirectly in the first instance out of the assessable
34 improvement fund and shall be recouped by the city with the taxes

1 of so many fiscal years, not exceeding five, next succeeding the
2 completion of the work or the acquisition of the property as shall
3 be certified by the head of the department at whose request such
4 real property was acquired or the improvement made.]

5 Section 211. Capital budget borough allocations.

6 a. Borough allocation. Five percent of the appropriations funded
7 by debt supported by city tax levy funds proposed in the executive
8 capital budget for the ensuing fiscal year, except any lump sum
9 appropriation for school construction or rapid transit proposed to
10 be made to public authorities established pursuant to the
11 provisions of state law, shall be allocated among the boroughs by
12 a formula based on an equal weighting of factors relating to
13 population and geographic area, and shall be known as the capital
14 budget borough allocation. Such formula shall be established by
15 local law, but in any fiscal year for which no such local law is
16 effective such amount shall be allocated among the boroughs on the
17 basis of the average of (i) each borough's share of the total
18 population of the city, and (ii) each borough's share of the total
19 land area of the city.

20 b. Preliminary borough allocations; initial borough president
21 notification. Concomitantly with the submission of the preliminary
22 capital budget and preliminary certificate, the mayor shall inform
23 each borough president of the portion of the executive capital
24 budget for the ensuing fiscal year and of the executive capital
25 budgets for each of the three succeeding years that, pursuant to
26 the formula required by subdivision a of this section, would be
27 allocated to each borough if the amount of the appropriations
28 proposed in the executive capital budget for each of such fiscal
29 years were the same as the maximum amounts of appropriations for
30 such years which the mayor anticipates to be certified in the
31 preliminary certificate issued in accordance with section sixty-

1 six. The amount of such portion shall be known as the preliminary
2 capital budget borough allocation.

3 c. Borough president proposals. 1. Each borough president, during
4 the consultations required by section seventy-four, shall submit
5 to the mayor, in such form as the mayor shall prescribe, proposed
6 capital appropriations in an amount not exceeding that borough's
7 allocation of the capital budget borough allocation as certified
8 by the mayor to the borough presidents during such consultations.
9 The timing of such certification shall allow sufficient time for
10 such consultations and for meeting the deadlines established by
11 section seventy-seven. Each such proposed appropriation shall be
12 accompanied by the following information:

13 (a) for each such proposed appropriation for construction of
14 a capital project, the estimated annual cost to operate and
15 maintain the facility to be constructed pursuant to such
16 appropriation when construction is completed. Such estimates shall
17 be prepared in accordance with the standards established for this
18 purpose pursuant to section two hundred twenty-one of this chapter
19 and shall be certified by the director of the office of management
20 and budget. In the event that a borough president and the director
21 of management and budget do not agree on such estimate for a
22 particular project, such director and the director of the
23 independent budget office shall jointly certify an estimate for
24 such purpose;

25 (b) for each such proposed appropriation for the planning and
26 design of a capital project, (i) the estimated cost of the
27 construction of the project, and (ii) the fiscal year in which
28 the borough president intends to propose an appropriation for the
29 construction of the project, if no technical problems regarding
30 the viability of the project are identified during planning, site
31 selection or design;

32 (c) the total of all appropriations which will be necessary
33 during the three ensuing fiscal years to provide for the
34 construction of projects for which planning and design
35 appropriations are being proposed.

1 2. If a borough president proposes an appropriation for the
2 construction of a capital project, the appropriation must provide
3 for the total amount estimated to be necessary for the completion
4 of the project. If such a proposed appropriation for the
5 construction of a capital project is for an amount which is less
6 than the amount that the office of management and budget estimates
7 to be necessary for the completion of the project, the borough's
8 capital budget borough allocation in any future year in which
9 additional appropriations are necessary for the completion of the
10 project shall be reduced by the amount of such additional
11 appropriations.

12 3. If the total appropriations necessary, during any of the
13 ensuing three fiscal years, to provide for the construction of (i)
14 projects for which the borough president is proposing
15 appropriations for planning and design, and (ii) projects for which
16 appropriations were previously made for planning and design on the
17 recommendation of the borough president, is greater than the
18 capital budget borough allocation anticipated to be available
19 during such years based on the certificate issued pursuant to
20 paragraph sixteen of section seventy-eight of this charter, then
21 the borough president shall submit for inclusion in the executive
22 budget a list of the projects requiring construction appropriations
23 during such year, in priority order.

24 4. If the estimated annual cost to operate and maintain the
25 capital projects being proposed for construction by a borough
26 president is greater than the amounts dedicated to such expense
27 budget purposes from the expense budget borough allocation and the
28 capital budget borough allocation expense budget contingency
29 projected to be available to the borough president in one or more
30 ensuing fiscal years then such proposed appropriations may only be
31 included by a borough president in the capital budget with the
32 concurrence of the mayor.

33 d. The mayor shall include the proposed appropriations submitted
34 by the borough presidents in accordance with subdivision c of this
35 section in the executive capital budget provided however, that the

1 d. The mayor shall include the proposed appropriations submitted
2 by the borough presidents in accordance with subdivision c of this
3 section in the executive capital budget provided however, that the
4 mayor may also include such comments and recommendations relating
5 to such proposals as the mayor deems appropriate.

6 Sec. [214.]212. [Departmental] Format of departmental estimates
7 for capital projects, preliminary capital budget and executive
8 capital budget. [On such date as the mayor may direct the head of
9 each agency shall submit to the director of management and budget,]
10 The departmental estimates for capital projects and the executive
11 capital budget shall consist of a detailed estimate of all capital
12 projects pending or which [he] the agency head, for departmental
13 estimates, or the mayor, for the executive budget, believes should
14 be undertaken within the ensuing fiscal year and the three
15 succeeding fiscal years. [Such estimates shall be known as
16 departmental estimates for capital projects and shall be in such
17 form and contain such information as may be required by the mayor.
18 Agencies shall consult with the community boards in the preparation
19 of the estimates.] Each agency head, for departmental estimates,
20 and the mayor, for the executive budget, shall submit a written
21 response to each of the capital budget priorities included in the
22 community board's statement of budget priorities submitted in
23 accordance with section sixty-one of this chapter. Such responses
24 shall include the response of the agency head and the mayor, as
25 appropriate, regarding the disposition of each such priority and
26 meaningful explanations of any disapprovals contained in such
27 estimates or budget.

28 Sec. [214-a.] 213. Preliminary capital budget [statements for
29 capital projects].

30 [a. Not later than the fifteenth day of January, the mayor shall
31 submit the preliminary budget statements for capital projects to

1 the board of estimate, council and each community board and borough
2 board, the city planning commission and the department of city
3 planning. Such] The preliminary capital budget [statements] shall
4 consist of: (1) a financial plan covering estimates of capital
5 expenditures for the four ensuing fiscal years, (2) departmental
6 estimates for capital projects as provided in section [214] two
7 hundred twelve together with the cash flow requirements and
8 proposed sources of funding for each project included in such
9 estimates [for the ensuing fiscal year and capital programs for the
10 three succeeding years], [and] (3) a capital program status report
11 which sets forth the appropriations for each project included in
12 the capital budget for the current fiscal year together with the
13 expenditures to date, and (4) a summary description of the purpose
14 of each capital project and the needs it will fulfill, the schedule
15 for beginning and constructing the project, its period of probable
16 usefulness and an appropriate maintenance schedule.

17 [Sec. 215. Preliminary budget statements public records.
18 Such preliminary budget statements shall be a public records and
19 shall at all reasonable times be open to public inspection.]

20 Sec. [219.] 214. Executive capital budget.

21 [b.]a. The executive capital budget shall set forth separately
22 each capital project, including the capital projects proposed by
23 the borough presidents in accordance with section two hundred
24 eleven, and shall [state] include:

25 1. A brief description and the location of each project; the
26 total estimated cost of the project; the [amount of obligations]
27 appropriations which have been [authorized; the amount of
28 obligations which are required to be authorized during the balance
29 of the current fiscal year] previously adopted for this project;
30 the amount of [obligations] appropriations recommended to be
31 [issued in] adopted for the ensuing fiscal year, the aggregate

1 amount of which shall not exceed the amount in the mayor's
2 certificate; the amount of [obligations] appropriations required
3 thereafter to complete the project; the sources of funds for the
4 project including state, federal, private and other funds; the
5 period of probable usefulness; [the estimated additional annual
6 debt service;] the estimated additional annual maintenance and
7 operation costs; [and] any terms and conditions of the project; and
8 the estimated dates of completion of final scope, final design and
9 final construction;

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

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

17 4. A listing of non-capital projects and expense items and
18 amounts proposed to be appropriated in the capital budget for each
19 such project and item; and]

20 [5.] 3. A listing of proposed capital projects by community
21 district and by borough and an identification of those projects
22 which were included in the statement of capital priorities
23 submitted by each community board and borough board.

24 [c.]b. The executive capital program shall set forth for both
25 program categories and individual projects:

26 1. A statement for each of the three succeeding fiscal years of
27 the total dollar [authorizations and supporting schedules
28 indicating the amount of funds obligated for each project,] amounts
29 necessary to complete projects initiated in prior years [as] and
30 projects proposed in the executive budget [and], the amounts
31 [reserved] necessary for projects proposed to be initiated in
32 future [budgets] years and the amounts necessary for for amendments
33 and contingencies; and

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

8 [3.] 2. A statement of the likely impact on the expense budget
9 of staffing, maintaining and operating the capital projects
10 included in or contemplated by the capital program[; and].

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

14 Sec. 215 Ten-year Capital Strategy.

15 a. The ten-year capital strategy shall be issued by the mayor
16 pursuant to section sixty-eight after (i) submission of a
17 preliminary strategy by the department of city planning and the
18 office of management and budget pursuant to section fifty-nine,
19 and (ii) submission of a report on the preliminary strategy by the
20 city planning commission following a public hearing, pursuant to
21 section sixty-five.

22 b. Contents of ten-year capital strategy. Each ten-year capital
23 strategy shall include:

24 (1) a narrative describing the strategy for the development of
25 the city's capital facilities for the ensuing ten fiscal years; the
26 factors underlying such strategy including goals, policies
27 constraints and assumptions and the criteria for assessment of
28 capital needs; the anticipated sources of financing for such
29 strategy; and the implications of the strategy, including possible
30 economic, social and environmental effects,

1 (2) tables presenting the capital commitments estimated to be
2 made during each of the ensuing ten fiscal years, by program
3 category and agency. Where relevant the anticipated sources of
4 financing for particular categories and projects shall be
5 specified, and

6 (3) a map or maps which illustrate major components of the
7 strategy as relevant.

8 c. In the preparation of the preliminary ten-year capital
9 strategy, the department of city planning and office of management
10 and budget shall consider (i) the strategic policy statements of
11 the mayor and the borough presidents pursuant to section seventeen,
12 (ii) relevant citywide, borough and community plans adopted
13 pursuant to section one hundred ninety seven-a, and (iii) the
14 reports pursuant to section eighty-four comparing the most recent
15 ten-year capital strategy with the capital budgets and programs
16 adopted for the current and previous fiscal years.

17 Sec. [224.] 216. Amendment.

18 a. Upon receipt of a recommendation in writing from the mayor or
19 a borough president, in manner specified herein, the [board of
20 estimate and the] council may amend the capital budget or capital
21 program in the same manner as the adoption of the capital budget
22 and capital program including the right to approve the proposed
23 amendment as submitted or to increase or decrease the amounts of
24 funds proposed to be appropriated thereby, but only if funds are
25 available within the capital budget and the applicable program
26 category of the capital program, provided, however that (i) the
27 mayor may only recommend such an amendment relating to an
28 appropriation included in the capital budget pursuant to section
29 two hundred eleven of this charter with the concurrence of the
30 relevant borough president; and (ii) the borough president may only
31 make such a recommendation with regard to such an appropriation if

1 it provides for an offsetting reduction in another appropriation
2 included in the capital budget pursuant to section two hundred
3 eleven on the recommendation of such borough president and it is
4 concurred in by the mayor.

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

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

13 Sec.[225.] 217. Restrictions on capital projects.

14 a. No obligations of the city shall be issued or authorized for
15 or on account of any capital project not included in a capital
16 budget, or for which funds have not been reserved in an appropriate
17 program category of the capital program for any year of such
18 program in which it is projected that funds will be expended for
19 the completion of the project, or in excess of the maximum amount
20 of obligations which may be issued on account of such project as
21 fixed in such capital budget; and no amount may be expended on
22 account of any capital project in excess of the amount appropriated
23 for such purposes in a capital budget, except that the amount
24 appropriated for such purposes may be increased by the mayor by not
25 more than fifteen per centum thereof in order to meet any costs
26 required to advance such project. Notice of any such increase
27 shall be provided to the [board of estimate and] council together
28 with a statement of identifiable funds available for payment of the
29 increase.

1 b. Funds included in the capital budget for a capital project that
2 are not obligated or committed during the fiscal year in which
3 appropriated shall not be obligated or committed in the subsequent
4 fiscal year unless reappropriated in a subsequent capital budget
5 or an amendment thereto. A capital project included in a capital
6 budget that is not initiated by the expenditure of funds within two
7 years after its inclusion in the budget shall be eliminated from
8 the budget.

9 c. [Not later than the fiscal year commencing July first, nineteen
10 hundred eighty-seven, the] The city may issue capital debt only to
11 finance capital projects as defined in section two hundred [eleven]
12 ten. [The mayor, during a period of ten successive fiscal years,
13 beginning with the fiscal year ending June thirtieth, nineteen
14 hundred seventy-seven, shall progressively eliminate from the] The
15 capital budget may not include expense items that are properly
16 includable only in the expense budget, as determined in accordance
17 with the accounting principles set forth in the state comptroller's
18 uniform system of accounts for municipalities, as the same may be
19 modified by the state comptroller, in consultation with the city
20 comptroller, for application to the city. [Such reduction shall
21 be at the cumulative rate of at least ten percent per year from the
22 total of the amount of expense items included in the capital budget
23 for the fiscal year ending June thirtieth, nineteen hundred
24 seventy-five, and no new or additional expense item or non-capital
25 item shall be included in the capital budget during such period.]
26

27 d. No capital project shall be included in the proposed executive
28 capital budget or otherwise adopted as part of the capital budget
29 or as an amendment thereto unless sufficient funds are available
30 within the appropriate general program category of the capital
31 program for any year of such program in which it is projected that

1 [funds will be expended] additional appropriations will be
2 necessary for the completion of the project.

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

8 Sec. [227.]218. Site selection.

9 a. The selection of sites for capital projects shall [conform]
10 be pursuant to the uniform procedures [provided pursuant to]
11 established by section one hundred ninety-seven-c.

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

15 c. During the review required by subdivision a, the community
16 board and borough president shall also review, and may comment on,
17 the scope of the project.

18
19 Sec. [228.]219. Project initiation; commitment plan.

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

27 b. The approval of a scope of project for a capital project
28 pursuant to this chapter, including the amount of obligations

1 necessary to finance the design and construction of the project,
2 shall constitute a direction and order to the agency to design the
3 project, unless sufficient funds for such purpose have not been
4 appropriated in the capital budget or are otherwise not available
5 within the appropriate program category of the capital program.
6 Such approval shall constitute notification to the comptroller of
7 [his] the comptroller's authorization to expend appropriated design
8 funds.

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

19 d. The mayor shall require each agency to prepare and submit [to
20 him] periodic reports, in regard to the progress of its capital
21 projects, including schedules and clear explanations of any delays
22 for particular projects and summary information on each agency's
23 record on such matters. Such reports shall be published [on a
24 quarterly basis] at least three times each year: within ninety days
25 of the adoption of the capital budget; with the preliminary capital
26 budget; and with the executive capital budget [and copies] copies
27 of such reports shall be transmitted by the mayor [or his
28 representative] to [the board of estimate,] the council, the city
29 planning commission, and the [respective] community boards, the
30 borough boards and borough presidents. Such reports shall include,
31 for each project, the dates set in the adopted capital budget for

1 the completion of scope, design, and construction and any changes
2 in such dates.

3 1. The report issued with the executive budget shall include, for
4 each new capital project being proposed in the executive budget,
5 a description of the project including, to the extent practicable,
6 the information required to be included in a scope of project by
7 paragraph four of section two hundred ten.

8 2. The report issued following the adoption of the budget shall
9 include, for each capital project added to the budget, a
10 description of the project including, to the extent practicable,
11 the information required to be included in a scope of project by
12 paragraph four of section two hundred ten.

13 3. The report issued following the adoption of the budget shall
14 include, for each capital project for which a substantial change
15 was made, a revised description of the project including, to the
16 extent practicable, the information required to be included in a
17 scope of project by paragraph four of section two hundred ten.

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

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

1 Sec. [229.]220. Improvements payable other than by city. Any
2 owner of real property or any other person interested may apply to
3 the [board of estimate] council to authorize an improvement
4 referred to in paragraph (d) of subdivision one of section two
5 hundred [eleven] ten hereof, not included in the capital budget.
6 The [board of estimate] council may authorize such improvement to
7 be made by the city or by such owner or other person interested
8 upon compliance with the following conditions:

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

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

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

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

30 Sec. [231.]221. Standards for capital projects. The mayor shall
31 prepare general standards and cost limits for categories of capital
32 projects [which] and standards for the preparation of the scope of
33 project for capital projects of various types. Such standards and

limits shall be submitted by [him] the mayor to the [board of estimate] council for review. The proposed standards shall become effective thirty days after they have been filed with the [board of estimate] council unless within that time the [board] council modifies or disapproves them or part of them, after conducting a public hearing. Any modification by the council shall be subject to disapproval by the mayor in accordance with section thirty-eight and any such disapproval shall be subject to override by the council in accordance with such section.

Sec. [232.]222. 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, or, in the case of a delay, an explanation for such delay along with a revised schedule, shall be submitted to the mayor and to the respective council committee, borough president and community board [within nine months from the effective date of the] by the date specified in the adopted capital 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.] Such proposed scope shall identify all substantial differences between the guidelines for the capital project as contained in such scope and the description of the capital project contained in the report issued pursuant to subdivision d of section two hundred nineteen at the time such project was proposed in the executive budget or following the budget adoption in which such project was added to the capital budget.

1 b. Not later than sixty days after receipt of the proposed scope
2 of project from an agency pursuant to [subsection] subdivision a
3 of this section, the mayor shall approve, modify, or disapprove
4 the proposed scope of project and notify the agency, and the
5 respective council committee, borough president and community
6 board. In the case of a scope approved by the mayor with
7 modifications, such notification shall include a copy of the scope
8 as approved. [If a borough president or a community board
9 petitions the board of estimate to review such action of the mayor
10 within thirty days thereof, or if the mayor fails to act, the board
11 of estimate after such a public hearing may approve, modify, or
12 disapprove the scope of project within sixty days. A scope of
13 project approved by the mayor shall be effective thirty days after
14 it has been acted upon by the mayor if no petition for review is
15 made to the board of estimate within the specified time period.]

16 c. During the review of the selection of a site of a capital
17 project pursuant to the uniform land use review procedure
18 established by section one hundred ninety-seven-c, the community
19 board and borough president shall also review, and may comment on,
20 the scope of the project.

21 d. No scope of project shall be approved by the mayor unless (1)
22 it contains the information required by paragraph four of section
23 two hundred ten and it conforms to the applicable standards for
24 the type of project adopted pursuant to this chapter, and (2) funds
25 are available within the appropriate program category of the
26 capital program that can be reserved for each fiscal year required
27 to complete the project.

28 Sec. [233.]223. Design of capital project. The proposed design
29 and final design for a capital project shall be made available for
30 review to the respective council committee, borough president and
31 the community board for the community district in which the project

1 is to be located. The mayor or his representative shall review the
2 final design to determine its conformance with the approved scope
3 of project pursuant to this chapter. [Within thirty days after
4 receipt of the final design, the borough president or community
5 board may petition to have it reviewed by the board of estimate to
6 determine only if the final design violates the scope of project
7 or creates excessive costs. The board of estimate shall have
8 thirty days within which to approve or disapprove the final design.
9 If no petition for review is made to the board of estimate, and no
10 objections are received by the mayor within the thirty day period,
11 the final design shall be effective.]

12 Sec. [234.]224. Works of art.

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

16 b. Works of art shall be provided for each capital project which
17 involves the construction or the substantial reconstruction of a
18 city-owned public building or structure the intended use of which
19 requires that it be accessible to the public generally or to
20 members of the public participating in, requiring or receiving
21 programs, services or benefits provided thereat. For the purposes
22 of this section a police precinct house and a firehouse shall be
23 deemed to be such buildings.

24 c. An amount not less than one per cent of the first twenty
25 million dollars and one-half of one per cent of any amount in
26 excess of twenty million dollars of capital funds appropriated by
27 the city for each such capital project, other than funds
28 appropriated for the acquisition of real property, shall be
29 allocated for works of art provided, however, that this section
30 shall in no case require the expenditure of more than four hundred

1 thousand dollars for works of art for any capital project; nor more
2 than the sum of one and one-half million dollars for works of art
3 in any fiscal year. The mayor may exempt a capital project from the
4 provisions of this section if in his sole judgment the inclusion
5 of works of art as provided hereby would be inappropriate.

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

13 e. The mayor shall adopt rules and regulations to implement the
14 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 or her discretion, authorize the expenditure of any money in the real property fund for the purchase of real property

1 for which [he] the comptroller has been authorized to issue
2 obligations and within the amount authorized. Upon authorization
3 of the board of estimate, the comptroller may, in his or her
4 discretion, authorize the expenditure of any money in such fund
5 for payment of any charges or expenses which the city is required
6 to pay under the terms of any lease of real property owned by the
7 city and leased to others and for payment of any costs or charges
8 incurred by the city in connection with the maintenance,
9 construction, improvement, repair, demolition, sale, rental or
10 other disposition of real property owned by the city.]

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

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

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

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

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

CHAPTER 11

SINKING FUNDS ESTABLISHED PRIOR TO JULY FIRST, NINETEEN HUNDRED
EIGHTY-ONE

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

1 the city of New York issued on and after the first day of January,
2 nineteen hundred ten, for rapid transit purposes, excepting that
3 issued since the first day of July nineteen hundred eighty-one
4 which is redeemable from the general sinking fund or any other
5 sinking fund established pursuant to chapter eleven-A of this
6 charter.

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

14 Sec. 274. Administration of sinking funds. The comptroller shall
15 administer and manage the several sinking funds of the city
16 established prior to July first, nineteen hundred eighty-one and
17 shall have custody of the securities in such funds. In the
18 administration of such funds the comptroller shall be deemed to be
19 acting in a fiduciary capacity. Where moneys of such sinking funds
20 are invested pursuant to section two hundred seventy-five of this
21 charter, in securities which are obligations of the United States
22 or of any agency, subdivision, department, division or
23 instrumentality thereof, or obligations fully guaranteed or insured
24 as to interest and principal by an agency, subdivision, department,
25 division or instrumentality of the United States, acting pursuant
26 to a grant of authority from the congress of the United States,
27 notwithstanding any other provision of law, the comptroller may
28 turn over the physical custody and safekeeping of these obligations
29 to (a) any bank or trust company incorporated in this state, or (b)
30 any national bank located in this state, or (c) any private banker
31 duly authorized by the superintendent of banks of this state to
32 engage in business here. All such private bankers shall, as private
33 bankers, maintain a permanent capital of not less than one million
34 dollars in this state. The comptroller may direct such bank, trust

1 company or private banker to register and hold any such securities
2 in its custody, in the name of its nominee. The comptroller may
3 deposit, or authorize such bank, trust company or private banker,
4 to deposit, or arrange for the deposit of, any of such securities
5 with a federal reserve bank to be credited to an account as to
6 which the ownership of, and other interest in, such securities may
7 be transferred by entries on the books of such federal reserve bank
8 without physical delivery of any such securities. The records of
9 any such bank, trust company or private banker shall show, at all
10 times, the ownership of such obligations, and they shall, when held
11 in the possession of such bank, trust company or private banker be,
12 at all times, kept separate from the assets of such bank, trust
13 company or private banker. When any such obligations are so
14 registered in the name of a nominee, such bank, trust company or
15 private banker shall be absolutely liable for any loss occasioned
16 by the acts of such nominee with respect to such obligations.

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

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

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

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

21 Sec. 277. Monthly report. Not later than the tenth day in each
22 month, the comptroller shall submit to the [board of estimate]
23 mayor and the council a certified report, which shall be published
24 forthwith in the City Record, setting forth the operations of the
25 several sinking funds during the preceding month and the condition
26 of such funds at the commencement and close of such month and such
27 other information as may be required.

28 Sec. 278. Annual report. Not later than the first day of
29 September in each year, the comptroller shall submit to the [board
30 of estimate] mayor and the council a certified report, which shall
31 be published forthwith in convenient form as a supplement to the
32 City Record and which shall set forth in detail the operations of
33 the several sinking funds during the preceding fiscal year, the
34 reserves required, the assets of such funds at the close of such

1 year, the obligations redeemable from such funds, the dates of
2 their maturities and such other information as may be required.
3

CHAPTER 13
[CONTRACTS AND PURCHASES]
PROCUREMENT

Sec. [341.] 340. Scope.

Except as otherwise provided in this charter or by statute,

1. all [supplies, materials and equipment to be furnished and work or labor to be done,] goods, services or construction 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] procured as prescribed in this chapter; provided, however, that for (i) the office of an independently elected city official, or (ii) the council, where the provisions of this chapter require action by the mayor or an appointee of the mayor in regard to a particular procurement except for mayoral action pursuant to subdivision c of section three hundred and sixty-four, such action shall not be taken by the mayor or such appointee of the mayor, but shall be taken respectively, by (i) by such elected official or (ii) the speaker of the council, or another member of the council designated by the speaker with the approval of a majority of the members of the council, and

2. all goods, services or construction to be procured by an entity, the majority of the members of whose board are city officials or are individuals appointed directly or indirectly by city officials shall be procured as prescribed in this chapter; provided, however, that where the provisions of this chapter require action by the mayor or an appointee of the mayor in regard to a particular procurement except for action pursuant to subdivision c of section three hundred and sixty-four, such action shall not be taken by the mayor or such appointee of the mayor, but shall be taken by the governing board of such entity or by the chair of the board or chief executive officer of such entity pursuant to a resolution adopted by such board delegating such

1 authority to such officer.

2 Sec. 341. Procurement Policy Board.

3 a. There shall be a procurement policy board consisting of five
4 members, three of whom shall be appointed by the mayor and two
5 of whom shall be appointed by the comptroller. Each member shall
6 serve at the pleasure of the appointing official. Members shall
7 have demonstrated sufficient business or professional experience
8 to discharge the functions of the board. At least one member
9 appointed by the mayor and one member appointed by the comptroller
10 shall not hold any other public office or public employment. The
11 remaining members shall not be prohibited from holding any other
12 public office or employment provided that no member may have
13 substantial authority for the procurement of goods, services or
14 construction pursuant to this chapter. The mayor shall designate
15 the chair.

16 b. The board shall promulgate rules as required by this chapter,
17 including rules establishing:

18 1. the methods for soliciting bids or proposals and awarding
19 contracts, consistent with the provisions of this chapter;

20 2. the manner in which agencies shall administer contracts and
21 oversee the performance of contracts and contractors;

22 3. standards and procedures to be used in determining whether
23 bidders are responsible;

24 4. the circumstances under which procurement may be used for
25 the provision of technical, consultant or personal services, which
26 shall include but not be limited to, circumstances where the use
27 of procurement is (a) desirable to develop, maintain or strengthen
28 the relationships between non-profit and charitable organizations
29 and the communities where services are to be provided , (b) cost-
30 effective, or (c) necessary to (i) obtain special expertise, (ii)
31 obtain personnel or expertise not available in the agency, (iii)

1 to provide a service not needed on a long-term basis, (iv)
2 accomplish work within a limited amount of time, or (v) avoid a
3 conflict of interest;

4 5. the form and content of the files which agencies are
5 required to maintain pursuant to section three hundred and sixty-
6 four and such other contract records as the board deems necessary
7 and appropriate;

8 6. the time schedules within which city officials shall be
9 required to take the actions required by this chapter, chapter 13-
10 A and chapter 13-B, or by any rule issued pursuant thereto, in
11 order for contracts to be entered into, registered and otherwise
12 approved, and recommended time schedules within which city
13 officials should take action pursuant to any other provision of law
14 or rule regarding individual contracts. The promulgation of rules
15 defining time schedules for actions by the director of economic and
16 financial opportunity and the director of the office of labor
17 services shall require the approval of each director, as such rules
18 pertain to actions required of their offices, prior to the adoption
19 of such rules by the procurement policy board;

20 7. procedures for the fair and equitable resolution of
21 contract disputes; and

22 8. such other rules as are required by this chapter.

23 c. The board may promulgate such additional rules, policies and
24 procedures consistent with and as may be necessary to implement
25 the provisions of this chapter. The board shall at least once
26 every three years review all of its rules, policies and procedures
27 and make such revisions as the board deems necessary and desirable.

28 d. In the promulgation of any rules pertaining to the procurement
29 of construction or construction related services, the board shall
30 consult with any office designated by the mayor to provide overall
31 coordination to the city's capital construction activities.

e. The board shall make such recommendations as it deems necessary and proper to the mayor and the council regarding the organization, personnel structure and management of the agency procurement function including, where appropriate, recommendations for revision of this charter or local laws affecting procurement by the city. Such reports may include recommendations regarding agency use of advisory groups to assist in preparation of bids or proposals and selection of contractors. The board shall also review the form and content of city contract documents and shall submit to the law department recommendations for standardization and simplification of contract language.

f. The board shall not exercise authority with respect to the award or administration of any particular contract, or with respect to any dispute, claim or litigation pertaining thereto.

Sec. 342. [Purchases not requiring public letting] Procurement; general rule and exceptions.

1. Except as provided for in sections three hundred forty-four, three hundred forty-five and three hundred and forty-six, contracts shall be awarded by competitive sealed bidding under such rules as shall be made by the procurement policy board, except that, in a special case as defined in subdivision b of this section, the head of an agency proposing to award such contract may order otherwise in accordance with policies and procedures established by the procurement policy board.

2. A determination by the head of an agency to use other than competitive sealed bidding except as provided for by sections three hundred forty-four and three hundred forty-six shall be made in writing, stating the reasons why competitive sealed bidding is not practicable or not advantageous and why the method of procurement selected pursuant to section three hundred forty-seven is the most competitive alternative that is appropriate under the

1 circumstances. The head of the agency shall submit a copy of such
2 determination to the procurement policy board and shall include
3 the determination or a summary of the determination in the notice
4 of solicitation, or for an emergency procurement in the notice of
5 award, required to be published pursuant to section three hundred
6 fifty-five of this chapter.

7 b. 1. For the purposes of this chapter, the term "special case"
8 shall be defined as a situation in which it is either not
9 practicable or not advantageous to the city to use competitive
10 sealed bidding for one of the following reasons:

11 i. specifications cannot be made sufficiently definite and
12 certain to permit selection based on price alone;

13 ii. judgment is required in evaluating competing proposals,
14 and it is in the best interest of the city to require a balancing
15 of price, quality, and other factors;

16 iii. the good, service or construction to be procured is
17 available only from a single source;

18 iv. testing or experimentation is required with a product or
19 technology, or a new source for a product or technology, or to
20 evaluate the service or reliability of such product or technology;
21 or

22 v. such other reasons as defined by rule of the procurement
23 policy board.

24 2. The procurement policy board may provide by rule that it
25 is either not practicable or not advantageous to the city, for one
26 of the reasons set forth in paragraph one of this subdivision, to
27 procure a specified type of good, service or construction by
28 competitive sealed bidding.

29 Sec. 343. [Public letting] Competitive sealed bidding. a. The
30 term competitive sealed bidding shall mean a method of procurement
31 where the award of a contract is made to the lowest responsible
32 bidder whose bid meets the requirements and criteria set forth in

1 the invitation for bids.

2 [a. If the several parts of the work, labor or the supplies,
3 materials and equipment to be done or furnished shall together
4 involve the expenditure of more than five thousand dollars, or in
5 the case of construction, repair, rehabilitation or alteration, the
6 expenditure of more than fifteen thousand dollars, such work or
7 labor or supplies, materials, and equipment or construction,
8 repair, rehabilitation or alteration shall be obtained only by
9 contract on public letting founded on sealed bids under such
10 regulations as shall be made by the board of estimate, except that
11 in a special case the board of estimate by a two-thirds vote may
12 order otherwise.]

13 b. Procedures for competitive sealed bidding.

14 1. Bids shall be solicited through an invitation for bids,
15 which shall include a purchase description and a notice of where
16 vendors may obtain a copy of all contractual terms and conditions
17 applicable to the procurement. A notice of the intention to
18 solicit bids shall be publicly advertised in accordance with the
19 provisions of section three hundred and fifty-five of this chapter.
20 The terms of such contracts shall be settled by the corporation
21 counsel as an act of preliminary specification to [a proposal] an
22 invitation for bids.

23 [b.] 2. The agency letting the contract may reject all bids
24 if it shall deem it for the interest of the city so to do; if not,
25 it shall, without other consent or approval, award the contract to
26 the lowest responsible bidder, unless the [board of estimate by a
27 two-thirds vote] mayor shall determine in writing, justifying the
28 reasons therefor, that it is [for the public interest] in the best
29 interest of the city that a bid other than that of the lowest
30 responsible bidder shall be accepted. Such determination shall be
31 filed with the procurement policy board and published in the City
32 Record. Tie bids are to be decided by the agency letting the

1 contract and the award made. Whenever a contract is awarded to
2 [another] other than the lowest bidder [,except by action of the
3 board of estimate,] because the lowest bidder is determined by the
4 agency not to be a responsible bidder or because the lowest bid is
5 determined by the agency to not meet the requirements and criteria
6 set forth in the invitation for bids, the agency making such
7 determination and awarding [the same] such contract shall
8 immediately notify the lowest bidder of such determination and
9 shall file in [its office] the agency contract file [and in the
10 offices of the comptroller, the commissioner of general services
11 and the city clerk] a statement in detail of the reasons
12 [therefore] therefor and shall submit copies of such determination
13 to the procurement policy board. [Notwithstanding any other
14 provision of this subdivision, the agency letting the contract may
15 award the contract to other than the lowest bidder upon prior
16 approval of the corporation counsel and the comptroller.]

17 3. Any bidder who is declared not responsible by an agency
18 and any bidder whose bid is determined by an agency to not meet the
19 requirements and criteria set forth in the invitation for bids may,
20 within five days of receipt of notice of the agency decision,
21 appeal such decision to the agency head. A determination of an
22 agency head on an appeal of a decision of non-responsibility may
23 be appealed to the mayor who shall take final action regarding such
24 matter. A determination of an agency head of an appeal of a
25 decision that a bid does not meet the requirements and criteria set
26 forth in the invitation for bids shall be final.

27 [d.] c. No bid shall be valid unless accompanied by a deposit in
28 the amount and manner set forth and specified in the proposal;
29 provided, however, that the [commissioner of general services]
30 procurement policy board shall establish such requirements for bid
31 deposits as are necessary and practicable, and, pursuant to rules
32 and standards, may waive the bid deposit requirement for specific
33 classes of purchase or types of transactions [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] execution of the contract and furnishing of the required security.

[e.] d. Every [proposal] invitation 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] the 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] the bidder 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] the deposit or as a defense to any action based upon such accepted bid.

[Sec. 342.] Sec. 344. Small purchases.

a. Notwithstanding the provisions of section three hundred and forty-two of this chapter, [If] if the several parts of the [work, labor or the supplies, materials and equipment to be done or furnished] goods, services or construction to be procured shall together involve an expenditure of not more than five hundred dollars, such purchases 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

1 this purpose, is an instance or situation in which: (1) a threat
2 to health or safety exists, (2) a necessary service is threatened
3 with material damage or suspension, or (3) buildings or property
4 are threatened. Such emergency purchase shall require the prior
5 approval of the commissioner of general services unless it is
6 outside normal working hours.

7 c.] b. If the several parts of the [work, labor or the supplies,
8 materials and equipment to be done or furnished] goods or services
9 shall together involve an expenditure of not more than ten thousand
10 dollars, the items may be procured on order awarded to the lowest
11 responsible bidder upon bids submitted without public
12 advertisement. An order for construction, repair, rehabilitation
13 or alteration may be awarded to the lowest responsible bidder
14 without public advertisement if it involves an expenditure of not
15 more than fifteen thousand dollars. [and is awarded] Awards
16 pursuant to [regulations and conditions prescribed by the board of
17 estimate] this section shall be made in accordance with rules of
18 the procurement policy board.

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

26 e.] c. Notwithstanding any other provision of this charter, the
27 dollar limits [pursuant to] set forth in this [section] chapter for
28 [purchases] procurement without [public letting] competitive sealed
29 bidding may be raised as to any or all agencies by the concurrent
30 action of the [board of estimate] procurement policy board and
31 council [by a two-thirds vote of each body]. No action pursuant

1 to this subdivision shall become effective until thirty days after
2 such action is taken.

3 Sec. 345. Emergency Procurement. Notwithstanding the provisions
4 of section three hundred forty-two of this chapter, in the case of
5 an unforeseen danger to life, safety, property or a necessary
6 service, an emergency procurement may be made with the prior
7 approval of the comptroller and corporation counsel, provided that
8 such procurement shall be made with such competition as is
9 practicable under the circumstances, consistent with the provisions
10 of section three hundred forty-seven of this chapter. A written
11 determination of the basis for the emergency and the selection of
12 the contractor shall be filed with the procurement policy board
13 and the determination or summary of such determination shall be
14 included in the notice of the award of contract published pursuant
15 to section three hundred fifty-five of this chapter.

16 Sec. 346. Intergovernmental procurement. Notwithstanding any
17 other requirement of this [section] chapter,

18 a. any [work or labor to be contracted or supplies, materials
19 and equipment to be purchased,] goods, services or construction to
20 be procured involving the use of funds received wholly or partially
21 from or through the federal government, may be procured, ordered
22 or awarded through the United States General Services
23 Administration, or any other federal agency if the price is lower
24 than the prevailing market price, and

25 b. any goods, services or construction may be procured,
26 ordered or awarded through the New York State office of general
27 services, or any other state agency, if the price is lower than the
28 prevailing market price.

29 Sec. 347. Alternatives to competitive sealed bidding.

1 a. If, in accordance with section three hundred forty-two, an
2 agency determines that the use of competitive sealed bidding is not
3 practicable or not advantageous to the city, the agency shall
4 select the most competitive alternative method of procurement
5 provided for by sections three hundred forty-eight through three
6 hundred fifty-two which is appropriate under the circumstance.
7 Each agency contract file shall contain documentation of such
8 determination and of the basis upon which each contract is awarded,
9 in such form as may be required by the procurement policy board.

10 b. Each contract for goods, services or construction in value of
11 more than two million dollars proposed by an agency to be awarded
12 which is let by other than (i) competitive sealed bidding, (ii)
13 competitive sealed bids from prequalified vendors, or (iii)
14 competitive sealed proposals, where the weight assigned to each of
15 the factors or criteria to be considered in selecting the proposal
16 most advantageous to the city was set forth in a writing filed in
17 the agency contract file prior to the opening of proposals shall
18 require the approval of the mayor or a deputy mayor prior to its
19 execution. The mayor or deputy mayor shall not delegate the
20 authority to make such approvals to any other body or official.

21 Sec. 348. Competitive sealed bids from prequalified vendors. Bids
22 may be solicited from vendors that have been prequalified for the
23 provision of a good, service or construction pursuant to section
24 three hundred fifty-four by mailing notice to each prequalified
25 vendor or, if special circumstances require, to a selected list of
26 prequalified vendors. Award of the contract shall be made in
27 accordance with the provisions of section three hundred forty-three
28 of this chapter. A determination to employ selective solicitation
29 for a particular procurement or for a particular category of
30 procurement shall be made in writing by the agency, approved by the
31 mayor and such writing and approval shall be filed in the office
32 of the procurement policy board.

1 Sec. 349. Competitive sealed proposals. Proposals may be
2 solicited through a request for proposals with award to the
3 responsible offeror whose proposal is determined to be the most
4 advantageous to the city, taking into consideration the price and
5 such other factors or criteria as are set forth in the request for
6 proposals. No other factors or criteria shall be used in the
7 evaluation and award of the contract except those specified in the
8 request for proposals. Discussions may be conducted with
9 responsible offerors who submit proposals, provided that offerors
10 shall be accorded fair treatment with respect to any opportunity
11 for discussion and revision of the proposals.

12 Sec. 350. Competitive sealed proposals from prequalified vendors.
13 Proposals may be solicited from vendors that have been prequalified
14 for the provision of a good, service or construction pursuant to
15 section three hundred fifty-four by mailing notice to each
16 prequalified vendor or, if special circumstances require, to a
17 selected list of prequalified vendors. Award of the contract shall
18 be made in accordance with the provisions of section three hundred
19 forty-nine. A determination to employ selective solicitation for
20 a particular procurement or for a particular category of
21 procurement shall be made in writing by the agency, approved by the
22 mayor and such writing and approval shall be filed in the office
23 of the procurement policy board.

24 Sec. 351. Sole source.

25 a. A contract may be awarded for a good, service or
26 construction without competition when an agency determines,
27 pursuant to rules promulgated by the procurement policy board, that
28 there is only one source for the required good, service or
29 construction. The agency contract file shall contain the agency's
30 determination that only a single source is available for the
31 required good, service or construction, including the process by

1 which the agency made such determination. Copies of such notice
2 shall be filed with the procurement policy board and the
3 comptroller.

4 b. Whenever an agency determines that there is only a single
5 source for a good, service or construction, an agency shall give
6 immediate notice in the City Record of such determination and shall
7 in such notice solicit the application of vendors qualified to
8 provide such good, service or construction, or interested in
9 providing such good service or construction in the future. The
10 procurement policy board shall by rule define the timing and
11 duration of such notification to ensure that vendors qualified to
12 provide such good, service or construction have sufficient
13 opportunity to express their interest to the agency prior to the
14 initiation of any sole source negotiation; provided, however, that
15 if the agency has determined that it should not reveal to the
16 vendor with whom it is negotiating that it is doing so on a sole
17 source basis under circumstances defined by rule of the procurement
18 policy board, the notice required by this subdivision shall be made
19 upon the completion of such negotiations or the award of the
20 contract. Vendors interested in providing such good, service or
21 construction in the future shall be prequalified in accordance with
22 section three hundred fifty four, or shall be included for receipt
23 of notice in accordance with subdivision a of section three hundred
24 fifty-five.

25 Sec. 352. Alternative procurement procedures. A contract may be
26 awarded according to another procurement procedure established by
27 rule of the procurement policy board, under circumstances, defined
28 by rule of the procurement policy board, in which the use of such
29 procedures is in the best interest of the city. An agency
30 determination to utilize such an alternative procurement procedure
31 for a particular procurement or for a particular type of
32 procurement shall require the written approval of the mayor prior
33 to seeking bids or proposals. The agency contract file shall

1 contain the determination to use limited or no competition which
2 shall state (1) which circumstance defined by the board to be in
3 the best interest of the city apply to the procurement, including
4 the basis upon which the agency made such determination, and (2)
5 which procedure, as defined by board pursuant to this section, was
6 used in awarding the contract. Copies of such notice shall be
7 filed with the procurement policy board.

8 Sec. 353. Multi-step sealed proposals. A preliminary request for
9 proposals may be issued requesting the submission of unpriced
10 offers. Submissions in response to such a preliminary request for
11 proposals may be relied upon by an agency (a) to solicit
12 competitive sealed bids in accordance with section three hundred
13 forty-three of this chapter; (b) to solicit competitive sealed bids
14 from prequalified entities in accordance with section three hundred
15 forty-eight; (c) to solicit competitive sealed proposals in
16 accordance with section three hundred forty-nine; or (d) to
17 solicit proposals from prequalified vendors in accordance with
18 section three hundred fifty.

19 Section 354. Prequalification.

20 a. Prospective vendors may be prequalified as contractors for the
21 provision of particular types of goods, services and construction,
22 in accordance with general criteria established by rule of the
23 procurement policy board which may include, but shall not be
24 limited to, the experience, past performance, the ability to
25 undertake work, financial capability, responsibility, and
26 reliability of prospective bidders, and may be supplemented by
27 criteria established by rule of the agency for the prequalification
28 of vendors for particular types of goods, services or construction
29 or by criteria published in the City Record by the agency for the
30 prequalification of vendors for a particular procurement. Such
31 prequalification may be by categories designated by size and other

1 factors. Agencies shall maintain lists of prequalified vendors and
2 entry into a prequalified group shall be continuously available.

3 b. Any vendor who is denied prequalification or whose
4 prequalification is revoked by an agency may appeal such decision
5 to the agency head. A determination of an agency head may be
6 appealed to the office of administrative trials and hearings for
7 a hearing which shall take final action regarding such matter. A
8 decision by an agency to suspend a vendor's prequalification may
9 be appealed to the agency head, provided that if such suspension
10 extends for more than three months it shall be deemed a revocation
11 of the prequalification for the purposes of this section.

12 Sec. 355. Notification of contract opportunities and awards.

13 a. Pursuant to rules of the procurement policy board, each agency
14 shall

15 1. for each category of goods, services or construction which
16 is regularly procured by the agency, periodically publish in the
17 City Record a notice soliciting the names of vendors interested in
18 being notified of future procurement opportunities in each such
19 category,

20 2. for each category of goods, services or construction for
21 which the agency prequalifies vendors for future procurement,
22 periodically publish in the City Record a notice soliciting the
23 names and qualifications of vendors interested in being considered
24 for prequalification for such category, and

25 3. publish in the City Record, and, where appropriate, in
26 newspapers of city, state or national distribution and trade
27 publications, notice of

28 (a) the solicitation of bids or proposals pursuant
29 to section three hundred forty-three and three hundred forty-seven
30 through three hundred fifty-two, where the value of a contract for
31 goods or services is estimated to be above ten thousand dollars,

1 or for construction above fifteen thousand dollars, except where
2 the agency has determined that solicitation should be limited to
3 prequalified vendors;

4 (b) the award of a contract for goods or services
5 exceeding ten thousand dollars in value or a contract for
6 construction exceeding fifteen thousand dollars in value. Each
7 such notice of award shall indicate the name of the contractor, the
8 dollar value of the contract, the procurement method by which the
9 contract was let, and for contracts let by other than competitive
10 sealed bidding, a citation of the clause of subdivision b of
11 section three hundred forty-two pursuant to which a procurement
12 method other than competitive sealed bidding was utilized.

13 b. The procurement policy board, in consultation with the
14 commissioner of general services, shall promulgate rules providing
15 for the publication and content of notices of contract actions
16 required by this chapter. Such rules shall include provisions
17 regarding,

18 i. the timing and frequency of notices,
19 ii. the required duration of solicitation periods,
20 iii. the form and content of notices, including the
21 organization and presentation of such notices within standard
22 categories of goods, services and construction which are
23 sufficiently detailed to provide meaningful distinctions among
24 categories.

25 c. The notice required by subparagraph a of paragraph three of
26 subdivision a of this section shall not apply to contracts awarded
27 on an emergency basis pursuant to section three hundred forty-five,
28 provided that the agency shall, as soon as is practicable, publish
29 notice that such a contract has been entered into, pursuant to
30 rules of the procurement policy board, nor shall such notice
31 requirements apply where the notice would disclose litigation
32 strategy or otherwise impair the conduct of litigation by the city.

1 Sec. 356. Public hearings on contract awards.

2 a. Prior to entering into any contract for goods, services or
3 construction to be awarded by other than competitive sealed bidding
4 or competitive sealed bids from prequalified vendors, the value of
5 which exceeds one hundred thousand dollars, the head or deputy head
6 of the agency shall upon reasonable public notice conduct a public
7 hearing to receive testimony regarding the proposed contract. The
8 procurement policy board may by rule exempt from this public
9 hearing requirement contracts to be let which do not differ
10 materially in terms and conditions, as defined by the board, from
11 contracts currently held by the city where the parties to such
12 contracts are the same; provided, that under no circumstance may
13 such exemption apply to any contract in value exceeding ten million
14 dollars.

15 b. The requirements of this section shall not apply to any
16 procurement (i) let pursuant to a finding of an emergency under
17 section three hundred forty-five, (ii) required to be made on an
18 accelerated basis due to markets which experience significant,
19 short-term price fluctuations, as identified by rule of the board,
20 or (iii) where a public hearing would disclose litigation strategy
21 or otherwise impair the conduct of litigation by the city.

22 Sec. 357. Certification of legal authority and procedural
23 requisites.

24 a. In the case of any contract which is let by other than
25 competitive sealed bidding, the mayor shall certify, prior to the
26 filing of the contract with the comptroller for registration in
27 accordance with section three hundred fifty-eight of this chapter,
28 that the procedural requisites for the solicitation and award of
29 the contract have been met. The mayor may delegate such function

1 to the agency proposing to award a contract only upon adequate
2 assurance of an agency's capacity to comply with procedural
3 requirements.

4 b. The corporation counsel shall certify prior to the filing of
5 a contract with the comptroller for registration in accordance with
6 section three hundred fifty-eight of this chapter, that each agency
7 proposing to award a contract has legal authority to award each
8 such contract.

9 Sec. 358. Registration of contracts by the comptroller.

10 a. No contract or agreement executed pursuant to this charter or
11 other law shall be implemented until (1) a copy has been filed with
12 the comptroller and (2) either the comptroller has registered it
13 or thirty days have elapsed from the date of filing, whichever is
14 sooner, unless an objection has been filed pursuant to subdivision
15 c of this section, or the comptroller has grounds for not
16 registering the contract under subdivision b of this section.

17 b. Subject to the provisions of subdivision c of this section, the
18 comptroller shall register a contract within thirty days unless the
19 comptroller has information indicating that:

20 i. there remains no unexpended and unapplied balance of the
21 appropriation or fund applicable thereto, sufficient to pay the
22 estimated expense of executing such contract, as certified by the
23 officer making the same;

24 ii. that a certification required by section three hundred
25 fifty-seven of this chapter has not been made; or

26 iii. the proposed vendor has been debarred by the city in
27 accordance with the provisions of section three hundred sixty-five.

28
29 c. The comptroller may, within thirty days of the date of filing
30 of the contract with the comptroller's office, object in writing

1 to the registration of the contract, if in the comptroller's
2 judgment there is sufficient reason to believe that there is
3 possible corruption in the letting of the contract or that the
4 proposed contractor is involved in corrupt activity. Such
5 objection shall be delivered within such thirty day period to the
6 mayor setting forth in detail the grounds for the comptroller's
7 determination. After the mayor has responded to the comptroller's
8 objections in writing, indicating (i) the corrective actions if
9 any, that have been taken or will be taken in response to the
10 comptroller's objections, or (ii) the reasons why the mayor
11 disagrees with the comptroller's objections, the mayor may require
12 registration of the contract despite the comptroller's objections.
13 Such response by the mayor shall not serve as the basis for further
14 objection by the comptroller, and the comptroller shall register
15 the contract within ten days of receipt of the mayor's response.

16 d. The requirements of this section shall not apply to

17 (1) an emergency contract awarded pursuant to section three
18 hundred forty-five or to an accelerated procurement as defined
19 under section three hundred fifty-six, provided that the agency
20 shall, as soon as is practicable, submit any such contract to the
21 comptroller for an audit of the procedures and basis for the
22 determination of the need for an emergency or accelerated
23 procurement, or

24 (2) a contract awarded pursuant to this chapter for the
25 provision of goods, services or construction that is not to be paid
26 for out of the city treasury or out of moneys under the control of
27 the city, provided that the board of the entity awarding such a
28 contract shall within ten days of awarding contract, file a copy
29 of such contract and any related materials specified by the mayor,
30 with the mayor or the mayor's designee for purposes of section
31 three hundred sixty-four of this charter.

32 Sec. [344.] 359. By whom procured.

1 a. All [work or labor] services to be performed by contract,
2 including the furnishing of [materials or supplies] goods incident
3 thereto, shall be obtained by the agency for whose use the
4 appropriation therefor shall have been made, except as otherwise
5 provided by law or by rule of the procurement policy board.

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

9 c. Pursuant to [standards and guidelines] rules of the
10 [commissioner of general services] procurement policy board [filed
11 in the offices of the comptroller, the commissioner of finance,
12 and the city clerk and published in the City Record,] and subject
13 to other sections of this chapter, each agency may purchase
14 directly [supplies, materials and equipment] goods in an amount not
15 to exceed one thousand dollars for each transaction or, with the
16 prior approval of the commissioner of general services, in an
17 amount not to exceed five thousand dollars for each transaction.
18 The limitation of this subdivision shall not apply to purchases by
19 an agency under a vendor contract entered into by the commissioner
20 of general services.

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

1 mayor, or the [board of estimate] comptroller.

2 [Sec. 345. Defaulter to city.

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

17 Sec. [346.] 360. Inspection.

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

29 Sec. [347.] 361. Specifications.

1 All purchases shall be based upon specifications which are definite
2 and certain, which permit of competition and which shall not be at
3 variance with standard specifications for the various classes of
4 [supplies, materials and equipment] goods approved by the
5 commissioner of general services. Before adopting standard
6 specifications the commissioner shall obtain and consider the
7 recommendations of agencies using the items to be standardized.

8 [Sec. 348. Patented, brand name, sole source articles; how
9 supplied.

10 Except for repairs no patented pavement shall be laid and no
11 patented or brand name or sole source article shall be advertised
12 for, contracted for or purchased, except under such circumstances
13 that there can be a fair and reasonable opportunity for
14 competition, pursuant to standards and policies of the commissioner
15 of general services. In the event that an item involves a purchase
16 price of more than twenty-five hundred dollars, the determination
17 of the commissioner shall be made after (1) the commissioner has
18 conducted or authorized to be conducted a public hearing and (2)
19 the approval in writing of the comptroller has been obtained.]

20 [Sec. 349. Consultant contracts.

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

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

1 in the City Record.

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

7 d. All mayoral and non-mayoral agencies required to submit
8 contracts to the board of estimate for approval pursuant to this
9 section shall have rules setting forth their procedures regarding
10 the use, oversight and reporting of contracts and selection of
11 contractors for consultant, technical and personal services which
12 require approval pursuant to this section. Such rules shall include
13 the following matters:

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

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

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

27 4. agency record keeping procedures for such contracts.

28 The rules established pursuant to this subdivision shall be filed
29 with the council and the board of estimate.

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

1 head's designee shall submit to such board a statement of the
2 reasons why the award of the contract is appropriate under the
3 agency's rules.

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

11 Sec. [350.] 362. Payments procedure.

12 a. The [commissioner of general services] procurement policy
13 board shall [prepare and] promulgate [procedures, standards and
14 guidelines] rules for the expeditious processing of payment
15 vouchers by city agencies and departments[; and shall oversee,
16 monitor, and report to the mayor, the board of estimate and the
17 public on agency performance of such function] including (i) the
18 maximum amount of time allowed for the processing and payment of
19 such vouchers from the later of (a) the date such vouchers are
20 received by the agency, or (b) the date on which the goods,
21 services or construction to which the voucher relates have been
22 received and accepted by the agency, (ii) a program for the payment
23 of interest to vendors on vouchers not paid within the maximum
24 amount of time pursuant to clause i of this subdivision, (iii) a
25 process for the allocation and charging of any such interest
26 payments to the budget of the agency responsible for the delay
27 leading to the interest payments and (iv) agency reporting on the
28 promptness of such payments in such form and containing such
29 information as the board shall prescribe. The board shall
30 coordinate and publish such agency prompt payment reports.

1 Sec 363. Evaluation and monitoring of contractor performance.

2 a. Each agency letting contracts shall monitor the performance of
3 every contractor. Information with respect to contractor
4 performance shall be maintained in a central place in accordance
5 with subdivision c of section three hundred sixty-four.

6 b. 1. If a borough president determines there is reason to
7 believe a term or condition of a contract providing for the
8 delivery of services in the borough is not being complied with and
9 that the contract should be terminated for noncompliance, modified,
10 not renewed, modified at the time of renewal, or that the existing
11 terms of the contract should be enforced, the borough president
12 shall document in writing the reasons for that determination and
13 present such determination, with a recommendation for appropriate
14 action, to the agency head for review. In the case of a
15 recommendation that a contract should not be renewed or should be
16 modified at the time of renewal, such recommendation shall be made
17 to the agency head at least one hundred and twenty days prior to
18 the expiration of the contract.

19 2. The agency head shall respond to the borough president's
20 findings within ten business days from receipt of such findings,
21 indicating what action, if any, shall be taken. If such action is
22 not satisfactory to the borough president, the borough president
23 shall, within thirty days of receipt of such responses, be
24 authorized to require that a hearing be held in the borough by a
25 contract performance panel consisting of the president of the city
26 council, the comptroller and the mayor, or their designees, to
27 receive the testimony of the borough president and other interested
28 persons on the borough president's recommendations. The hearing
29 shall be held within twenty days from the borough president's
30 request for the hearing. The head of the agency which procured the
31 services in question, or a designee of such agency head, and the

1 contractor whose performance is being evaluated, shall have the
2 right, and it shall be their duty when requested by the panel, to
3 appear and be heard.

4 3. The panel shall recommend, within thirty days of the date
5 of such hearing, such action as it deems appropriate and shall
6 promptly deliver its recommendations in writing to the agency head,
7 borough president and contractor. Within thirty days of receipt of
8 the panel's recommendation, the agency head shall respond in
9 writing to the panel and the borough president, indicating which
10 of the panel's recommendations shall be acted upon and what, if
11 any, alternative action will be taken.

12 4. In the case of any contract regarding which more than one
13 borough president has submitted a determination in accordance with
14 paragraph one of this subdivision, the agency receiving such
15 determinations shall notify each such borough president of the
16 agency response submitted in accordance with paragraph two of this
17 subdivision. A hearing, if any, held shall include the comments
18 of all such borough presidents.

19 Sec. 364. Information on city contracts.

20 a. Agency contract files. Each agency shall maintain files
21 containing information pertaining to the solicitation, award and
22 management of each contract of the agency in accordance with
23 standard record maintenance requirements established pursuant to
24 section three thousand four of this charter. The agency contract
25 files shall contain copies of each determination, writing or filing
26 required by this chapter pertaining to a contract and such
27 information as is prescribed by rule of the procurement policy
28 board, in such form as is prescribed by the procurement policy
29 board. Agency contract files shall be open to public inspection
30 with adequate protection for information which is confidential.

1 b. Requests by elected officials for contract documentation.
2 Whenever an elected official of the city requests documentation
3 relating to the solicitation or award of any city contract, the
4 mayor and city agencies shall promptly provide such documentation
5 as is requested or shall promptly respond to the requesting
6 official with reason why such documentation cannot be provided.
7 If the mayor or agency is unable to provide the requested
8 documentation within ten business days of the day the request is
9 received, the mayor or agency shall within such time deliver to the
10 requesting official a statement of the reasons the documentation
11 can not be promptly provided and shall include in such statement
12 a timetable within which the documentation will be provided, not
13 to exceed thirty days from the date of the original request.

14 c. Centralized contract and contractor information. The mayor
15 shall ensure that copies of city contracts and other standard
16 information regarding city contracts and contractors are reasonably
17 available for public inspection in accordance with provisions of
18 section one thousand sixty-four of this charter.

19 Sec. 365. Suspension and debarment.

20 a. No person or firm shall be suspended or debarred from
21 contracting with the city or any agency of the city except in
22 accordance with the provisions of this section.

23 b. Authority to suspend or debar from bidding on or receiving city
24 contracts.

25 1. Upon the petition of the head of an agency, after
26 reasonable notice and reasonable opportunity for the person or firm
27 to respond at a hearing to be held on a record, the office of
28 administrative trials and hearings shall determine whether a person
29 or firm should be debarred for cause from consideration for award
30 of any city contract for a period not to exceed five years.

1 2. The agency petitioning for the debarment of a person or
2 firm shall have the authority to suspend a person or a firm for a
3 period not to exceed three months from consideration for award of
4 a contract if there is probable cause for debarment such
5 determination may be appealed to the agency head for final action.

6 3. The causes for debarment or suspension shall be defined
7 by the procurement policy board and shall include but not be
8 limited to the following matters, as may be interpreted by rule of
9 the procurement policy board:

10 a. indictment or conviction for an offense indicating a
11 lack of business integrity or business honesty which currently,
12 seriously, and directly affects responsibility as a city
13 contractor;

14 b. violation of contract provisions, as set forth below:

15 (i) failure without good cause to perform in
16 accordance with the specifications or within the time limit
17 provided in the contract;

18 (ii) a record of unsatisfactory performance in
19 accordance with the terms of one or more contracts;

20 c. arrears on any debt or contract with the city or any
21 agency of the city, default as surety or otherwise upon any
22 obligation to the city or any agency or arrears for taxes;

23 d. an agency determination of non-responsibility made
24 pursuant to subdivision a of section three hundred forty-three,
25 where the determination involves questions of the contractor's
26 qualifications to perform on any city contract, or

27 e. violation of the provisions of chapter thirteen-a or
28 thirteen-b of this charter, or any rule or standard promulgated
29 pursuant thereto.

1 CHAPTER 13-A

2 Office of Economic and Financial Opportunity

3
4 Sec. 352. Office of economic and financial opportunity.

5 1. There shall be an office of economic and financial
6 opportunity, the head of which shall be the director of the office
7 of economic and financial opportunity. The purpose of the office
8 shall be to enhance the ability of minority and women owned
9 business enterprises to compete for city contracts, to enhance city
10 agencies' awareness of such business enterprises, and to ensure
11 their meaningful participation in the city procurement process.

12 2. The director may, within the appropriations available
13 therefor, appoint such deputies, assistants, and other employees
14 as may be needed for the performance of the duties prescribed
15 herein, and may request and shall receive from any agency such
16 assistance as may be necessary to carry out the provisions of this
17 chapter.

18 3. The director shall establish, administer, coordinate, and
19 enforce a citywide program for the identification, recruitment,
20 certification and participation of minority and women owned
21 business enterprises in the city procurement process.

22 4. The director shall be authorized to promulgate rules
23 necessary to implement the purposes of this chapter. The director
24 shall consult with the procurement policy board in drafting and
25 adopting such rules. Such rules shall define sanctions which are
26 appropriate to remedy violations or penalize contractors for
27 failure to comply with the provisions of this chapter or with any
28 program or rule established pursuant to this chapter. The time
29 schedules for actions required to be taken pursuant to this chapter
30 shall be defined by rule of the procurement policy board in
31 accordance with the provisions of section three hundred forty one.

32 5. The director shall monitor the implementation of all
33 financial, technical, managerial, and bonding assistance programs
34 operated by city agencies to enhance participation by minority and

1 women owned business enterprises in the city procurement process.

2 6. The director shall have the following powers and duties to
3 implement the purposes of this chapter:

4 a. to direct and assist agencies in their efforts to increase
5 participation by minority and women owned business enterprises as
6 contractors and subcontractors in the city procurement process;

7 b. to develop standardized forms and reporting documents;

8 c. to conduct, coordinate and facilitate technical assistance and
9 educational programs;

10 d. to periodically review the compliance of city agencies with the
11 provisions of this chapter;

12 e. to annually report to the mayor and the council on the ac-
13 tivities of the office and efforts by agencies to comply with the
14 provisions of this chapter. Such report shall recommend such
15 activities and programs as the director deems necessary to
16 effectuate the purposes of this chapter;

17 f. to establish and operate, on behalf of the city, a centralized
18 program for the certification of minority owned business
19 enterprises and women owned business enterprises, for the purposes
20 of establishing the eligibility of such businesses for
21 participation in the programs and processes designed to ensure the
22 meaningful participation by such businesses in the procurement
23 activities of all city agencies. For the purposes of such
24 certification, "minority owned business enterprise" and "women
25 owned business enterprise" shall mean business enterprises
26 authorized to do business in this state, including sole
27 proprietorships, partnerships and corporations, in which (i) at
28 least fifty-one percent of the ownership interest is held by United
29 States citizens or permanent resident aliens who are either, (a)
30 minority group members, or (b) women, (ii) the ownership interest
31 of such persons is real, substantial and continuing, and (iii) such
32 persons have and exercise the authority to control independently
33 the day to day business decisions of the enterprise. "Minority
34 group member" shall mean a United States citizen or permanent

1 resident alien who is a member of a racial or language minority
2 group in New York City pursuant to the Voting Rights act of 1965,
3 as amended;

4 g. to audit such business enterprises and periodically review and
5 in appropriate cases recertify their eligibility for participation
6 in programs established pursuant to this chapter;

7 h. to direct and assist city agencies in their efforts to increase
8 participation by minority and women-owned business enterprises in
9 any city-operated financial, technical, and management assistance
10 program;

11 i. to assist all business enterprises certified pursuant to this
12 chapter in becoming prequalified for all categories of procurement
13 for which they are may be eligible and for which contracting
14 agencies utilize prequalification in the procurement process;

15 j. to prepare and periodically update a directory of such city
16 certified business enterprises for use by city agencies and
17 contractors and develop a clearinghouse of information on programs
18 and services available to such business enterprises;

19 k. to provide such assistance to certified businesses enterprises
20 and businesses interested in being certified as is needed to ensure
21 that such businesses benefit from city technical, managerial,
22 financial assistance, and other business development programs.

23 Sec. 353. Responsibilities of the city agencies. 1. The
24 head of each city, county, borough or other office, position,
25 administration, board, department, division, commission, bureau,
26 corporation, authority, or other agency of government, where the
27 majority of board members are appointed by the mayor or serve by
28 virtue of being city officers or the expenses of which are paid in
29 whole or in part from the city treasury, and including but not
30 limited to the board of education, school boards, city and
31 community colleges, financial services corporation, city housing
32 authority, public development corporation, and health and hospitals
33 corporation, shall:

1 a. establish and implement reasonable measures and procedures
2 to secure the meaningful participation of city certified businesses
3 enterprises in the agency's (1) procurement of goods, services and
4 construction, and (2) financial, technical and managerial
5 assistance programs for such business enterprises;

6 b. monitor all city contracts under the agency's jurisdiction
7 for compliance with programs and policies established pursuant to
8 this chapter, and refer and recommend appropriate matters to the
9 office of economic and financial opportunity and the law
10 department;

11 c. designate a deputy commissioner or other executive officer
12 to advise the director concerning the activities of the agency in
13 carrying out its responsibilities pursuant to this chapter;

14 d. cooperate with and furnish to the office such information
15 and assistance as may be required in the performance of the
16 office's functions under this chapter and the rules promulgated
17 hereunder;

18 e. make available to prospective bidders a current copy of
19 the directory of city certified businesses; and

20 f. periodically report to the office on activities undertaken
21 to promote and increase participation by city-certified businesses
22 in its procurement and any financial, technical, or management
23 assistance program which it administers.

24 Sec. 354. Enforcement, sanctions and remedies. Upon
25 receiving a complaint or at its own instance, a contracting agency
26 may conduct such investigation as is necessary to determine whether
27 a contractor is in compliance with the requirements of this chapter
28 or any rule or program adopted pursuant to this chapter. The
29 contracting agency shall, upon a determination of noncompliance,
30 assess appropriate sanctions to be imposed on the contractor, in
31 accordance with rules of the office of economic and financial
32 opportunity promulgated for this purpose. A copy of such
33 determination shall be submitted to the director of the office, who
34 shall respond to the agency prior to the imposition of sanctions

with such modifications of the agency's determination of sanctions as are necessary to ensure compliance with the office's rules for sanctions.

Sec. 355. Small and locally-based business enterprises. In addition to the purposes provided in section three hundred fifty-two, the office shall administer any programs for small or locally-based business enterprise programs as may be established by law. The office shall, pursuant to applicable local laws, certify such enterprises as are eligible to participate in such programs, periodically review and recertify their eligibility, audit business enterprises that participate in such programs, and publish a directory of participating enterprises.

1 CHAPTER 13-B

2 OFFICE OF LABOR SERVICES

3
4 Sec. 360. The office of labor services. 1. There shall be
5 an office of labor services the head of which shall be the director
6 of the office of labor services.

7 2. The director may appoint, within the appropriations available
8 therefor, such deputies, assistants, and other employees as may be
9 needed for the performance of the duties prescribed herein, and may
10 request and shall receive from any contracting agency of the city
11 such assistance as may be necessary to carry out the provisions of
12 this chapter.

13 3. The director shall administer the provisions of this chapter
14 and enforce a citywide program to ensure that city contractors and
15 subcontractors take appropriate action to ensure that women and
16 minority group members are afforded equal employment opportunity,
17 and that all persons are protected from discrimination prohibited
18 under the provisions of federal, state and local laws and executive
19 orders with regard to recruitment, employment, job assignment,
20 promotion, upgrading, demotion, transfer, layoff, termination,
21 rates of pay and other forms of compensation. "Minority group
22 member" shall mean a United States citizen or permanent resident
23 alien who is a member of a racial or language minority group in New
24 York City protected by the Voting Rights Act of 1965, as amended,
25 or such other groups as may be covered by rule of the agency.

26 4. The director shall promulgate such rules as are necessary to
27 implement the purposes of this chapter. The director shall consult
28 with the procurement policy board in drafting and adopting such
29 rules.

30 5. The director shall have the following powers and duties:

31 (a) to implement, monitor compliance with, and enforce this
32 chapter and programs established pursuant to local, state and
33 federal law and executive order requiring contractors to provide
34 equal employment opportunity;

1 (b) to implement, monitor compliance with, and enforce on-
2 the-job training requirements on construction projects;

3 (c) to monitor compliance by contractors with state and
4 federal prevailing wage requirements;

5 (d) to advise and assist contractors, subcontractors and
6 labor unions with respect to their obligations to provide equal
7 employment opportunity;

8 (e) to advise and assist persons in the private sector with
9 respect to employment problems related to the purposes of this
10 chapter;

11 (f) to establish appropriate advisory committees; and

12 (g) to serve as a city liaison to federal, state and local
13 agencies responsible for contractors' and subcontractors'
14 compliance with equal employment opportunity.

15 (h) such other powers and duties as may be conferred on the
16 office by law or executive order for the purpose of ensuring that
17 persons or businesses which benefit from doing business with the
18 city provide equal employment opportunity.

19 6. The director shall develop appropriate language for inclusion
20 in city contracts regarding the subject matter of this chapter.
21 Such contract language shall be reviewed by the corporation
22 counsel. Such contract language shall require that a contractor:

23 (a) shall not unlawfully discriminate in accordance with the
24 requirements of applicable federal, state and local laws;

25 (b) shall inform any employee representatives authorized to
26 bargain collectively for its employees of the contractor's
27 obligations pursuant to this chapter, and negotiate with such
28 representatives to obtain their cooperation in the implementation
29 of such obligations;

30 (c) shall require that any subcontractor it employs in the
31 performance of the contract comply with the requirements of this
32 chapter.

33 7. a. The director shall require employment reports to be
34 submitted in such form and containing such information as the

1 director may prescribe, by contractors to whom agencies propose to
2 award city contracts and their proposed subcontractors, when such
3 contacts or subcontracts have a value above a monetary threshold
4 that the director shall by rule establish. The director may by
5 rule provide for appropriate exemptions from such requirement.

6 b. An employment report shall include, but not be limited to,
7 employment practices, policies, procedures, statistics and
8 collective bargaining agreements. The contracting agency shall
9 transmit the employment report to the director after the selection
10 of a proposed contractor or subcontractor. The director shall
11 review all employment reports to determine whether such contractors
12 and subcontractors are in compliance with the equal employment
13 opportunity requirements of local, state and federal law and
14 executive orders.

15 c. Except as provided in paragraphs d, e and f of this
16 subdivision, a contracting agency may award the contract or approve
17 a subcontractor upon receiving the approval of the office, or after
18 a number of days to be specified by rule have passed since it
19 submitted the employment report of the proposed contractor to the
20 office, whichever is sooner.

21 d. If the director notifies the contracting agency that a
22 proposed contractor or subcontractor has failed to submit a
23 complete employment report, the director shall require the
24 contracting agency not to award the contract or approve the
25 subcontractor until after a complete employment report has been
26 submitted to the office for its review.

27 e. If the director notifies the contracting agency that the
28 office has reason to believe that the contractor or subcontractor
29 is not in substantial compliance with the requirements of this
30 chapter, the director may require the contracting agency not to
31 award the contract or approve the subcontractor until the
32 contractor has agreed to take appropriate action to come into
33 compliance with such requirements.

34 f. The director may by rule provide for circumstances when

a contract or subcontract may be awarded without the prior approval of the office, which shall include but not be limited to requirements contracts which may be awarded prior to approval of an employment report, subject to the condition that a purchase shall not be made under the contract until the office has approved the employment report, emergency contracts, and contracts with contractors or subcontractors for which the office has previously approved an employment report.

g. The time schedules for actions required to be taken pursuant to this chapter shall be defined by rule of the procurement policy board in accordance with the provisions of section three hundred forty-one.

8. Periodic Review. The director may require contractors or subcontractors to file periodic employment reports after the award of a contract in such form and with such frequency as the director may direct by rule to determine whether such contractors or subcontractors are in compliance with applicable legal requirements and the provisions of this chapter.

Sec. 361. Responsibilities of city agencies.

The head of each city, county, borough or other office, position, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government, where the majority of board members are appointed directly or indirectly by the mayor or serve by virtue of being city officers, or the expenses of which are paid in whole or in part from the city treasury, including the board of education, city and community colleges, financial services corporation, health and hospitals corporation, public development corporation, school boards, and city housing authority, shall:

1. assist the office in monitoring compliance with the equal employment opportunity requirements of contracts under its jurisdiction and refer and recommend matters to the office with respect to non-compliance with the provisions of this chapter;

2. designate a deputy commissioner or other executive officer

1 to advise the director of the office of labor services concerning
2 the activities and progress of the agency in carrying out its
3 responsibilities pursuant to this chapter;

4 3. in accordance with the provisions of section three hundred
5 sixty-five, impose remedies and sanctions for failure to comply
6 with the requirements included in city contracts pursuant to this
7 chapter.

8 Sec. 364. Enforcement, remedies and sanctions.

9 Upon receiving a complaint or at its own instance, the office
10 may conduct such investigation as may be necessary to determine
11 whether contractors and subcontractors are in compliance with the
12 equal employment opportunity requirements of federal, state and
13 local laws and executive orders. If the director has reason to
14 believe that a contractor or subcontractor is not in compliance
15 with the provisions of this chapter, the director shall seek the
16 contractor's or subcontractor's agreement to adopt and adhere to
17 an employment program designed to ensure equal employment
18 opportunity, including but not limited to measures designed to
19 remedy underutilization of minorities and women in the contractor's
20 or subcontractor's workforce, and may, in addition, recommend to
21 the contracting agency that payments to the contractor be suspended
22 pending a determination of the contractor's or subcontractor's
23 compliance with such requirements. If the contractor or
24 subcontractor does not agree to adopt or does not adhere to such
25 a program, the director shall make a determination as to whether
26 the contractor or subcontractor is in compliance with the
27 provisions of this chapter, and shall notify the head of the
28 contracting agency of such determination and any sanctions,
29 including withholding of payment, imposition of an employment
30 program, or other sanction or remedy provided by law or by
31 contract, which the director believes should be imposed. The head
32 of the contracting agency shall impose such sanction unless he or
33 she notifies the director in writing that the agency head does not
34 agree with the recommendation, in which case the director and the

1 head of the contracting agency shall jointly determine any sanction
2 to be imposed. If the agency head and the director do not agree
3 on the sanction to be imposed, the matter shall be referred
4 to the mayor, who shall determine any sanction to be imposed.

5 Sec. 365. Confidentiality. To the extent permitted by law
6 and consistent with the proper discharge of the office's
7 responsibilities under this chapter, all information provided by
8 a contractor to the office shall be confidential.

9 Sec. 366. This chapter shall not apply:

10 a. to contracts for financial or other assistance
11 between the city and a government or governmental agency;

12 b. to contracts, resolution, indentures, declarations
13 of trust, or other instruments authorizing or relating to the
14 authorization, issuance, award, and sale of bonds, certificates of
15 indebtedness, notes or other fiscal obligations of the city, or
16 consisting thereby, except as otherwise provided by law or
17 executive order; or

18 c. to employment by the city of its officers and
19 employees which is subject to equal employment opportunity
20 requirements of applicable law.

CHAPTER 14

FRANCHISES, REVOCABLE CONSENTS AND CONCESSIONS

[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.] Sec. 362. Definitions.

For the purposes of this charter:

a. "Concession" shall mean a grant made by an agency for the private use of city-owned property for which the city receives compensation other than in the form of a fee to cover administrative costs, except that concessions shall not include franchises, revocable consents and leases.

b. "Franchise" shall mean a grant by an agency of a right to occupy or use the inalienable property of the city to provide a public service.

c. "Responsible Agency" shall mean (1) with respect to a franchise, the agency designated by the mayor pursuant to section three hundred sixty-three or three hundred seventy-eight as the

1 agency having primary expertise and responsibility for the type of
2 franchise involved, (2) with respect to a revocable consent, the
3 agency authorized to grant a revocable consent of the type involved
4 pursuant to section three hundred sixty-four, or (3) with respect
5 to a concession, the agency granting a concession.

6 d. "Revocable Consent" shall mean a grant by the city of a
7 right, revocable at will, (1) to any person to construct and use
8 for private use pipes, conduits and tunnels under, railroad tracks
9 upon, and connecting bridges over inalienable property, (2) to an
10 owner of real property or, with the consent of the owner, to a
11 tenant of real property to use adjacent inalienable property for
12 such purposes as may be permitted by rules of the department of
13 transportation or the department of telecommunications or (3) to
14 a public service corporation for facilities ancillary to, but not
15 within, a franchise granted prior to the effective date of this
16 section.

17 Sec. 363. Franchises. a. Franchises shall be awarded only
18 in accordance with the provisions of an authorizing resolution
19 adopted by the council pursuant to the provisions of this section.

20 b. An initial determination of the need for franchises of a
21 particular type shall be made by the head of the agency designated
22 by the mayor as having the primary expertise and responsibility in
23 the policy area covered by that type of franchise. Upon making
24 such a determination, such agency, with the advice of the
25 corporation counsel and such other agencies as the mayor shall
26 determine, shall prepare a proposed authorizing resolution for that
27 type of franchise and shall submit such proposed authorizing
28 resolution to the mayor. Such a proposed authorizing resolution
29 shall set forth the nature of the franchise or franchises to be
30 granted, the public service to be provided, the terms and
31 conditions of the franchise or franchises including any subsidies
32 that will be given to a franchisee, the method by which proposals
33 will be solicited for the franchise or franchises and the criteria
34 to be used in evaluating the proposals submitted in response to

1 such a solicitation.

2 c. The mayor may submit such a proposed authorizing
3 resolution to the council. Promptly upon submission to the
4 council, the text of any such authorizing resolution shall be
5 published in the City Record. Within ninety days of receiving such
6 a proposed resolution, the council or a committee of the council
7 shall hold a public hearing on such resolution. The council may
8 approve, approve with modifications or disapprove such resolution
9 by majority vote. Any action of the council approving a
10 modification to a proposed authorizing resolution or disapproving
11 a proposed authorizing resolution shall be subject to the
12 disapproval of the mayor in the same manner as a local law which
13 is passed by the council, and any such disapproval shall be subject
14 to reconsideration, repassing and adoption, notwithstanding the
15 objections of the mayor, in the same manner as a local law which
16 is disapproved by the mayor. The council may on its own initiative
17 amend an authorizing resolution. The procedure for council review
18 and approval of such a proposed amendment shall be the same as for
19 an authorizing resolution.

20 d. No authorizing resolution or other action of the council
21 may provide for any involvement by the council or any member of
22 the council in the selection of a franchisee pursuant to such
23 resolution.

24 e. Pursuant to an authorizing resolution adopted by the
25 council, the responsible agency may issue one or more requests for
26 proposals or other solicitations of proposals; provided that (1)
27 the corporation counsel shall have determined that the request for
28 proposals is consistent with the provisions of the authorizing
29 resolution and (2) no such request or solicitation shall be issued
30 unless either the department of city planning has determined that
31 the proposed franchise would not have land use impacts or
32 implications or such request or solicitation has been reviewed and
33 approved pursuant to section one hundred ninety-seven-c and section
34 one hundred ninety-seven-d. A community board may waive a public

1 hearing and the preparation of a written recommendation with
2 respect to any such request for proposals or solicitation which in
3 its judgment does not involve a substantial land use interest. Any
4 such request for proposals or solicitation issued in accordance
5 with this subdivision shall set forth the criteria and procedures
6 to be utilized in evaluating the proposals submitted in response
7 to such request or solicitation.

8 f. The selection of a franchisee shall be in accordance with
9 the provisions of the authorizing resolution covering franchises
10 of the type involved. Each such selection and each franchise
11 agreement shall be subject to the review and approval of the
12 franchise and concession review committee pursuant to sections
13 three hundred seventy-one, three hundred seventy-two and three
14 hundred seventy-three.

15 g. Nothing in this section shall preclude any agency, prior
16 to proposing an authorizing resolution, from issuing one or more
17 requests for information or other solicitations of information
18 regarding the availability of potential franchisees with expertise
19 in the subject matter of a proposed type of franchise, suggestions
20 regarding the appropriate terms and conditions which should be
21 contained in an authorizing resolution for that type of franchise
22 or any other information which would assist the agency in
23 determining how to proceed with regard to the public service
24 involved.

25 h. All franchises shall be consistent with the following
26 requirements:

27 (1) Every grant of [or consent to] a franchise [of any
28 character] or modification thereof must be by written [contract]
29 agreement approved by the franchise and concession review committee
30 and executed by [or] the responsible agency under the authority of
31 [the board of estimate] an authorizing resolution adopted by the
32 council in accordance with the provisions of this chapter.

33 [Sec. 364. Limitation on period of grant. a.]

1 (2) No such [contract] agreement shall be for a longer period
2 than twenty-five years except that in the case of a tunnel railroad
3 it may be for a period not exceeding fifty years.

4 [b.]

5 (3) The [contract] agreement may, at the option of the city,
6 provide for giving to the grantee the right of renewals not
7 exceeding in the aggregate twenty-five years on a fair
8 redetermination of the compensation to the city to be made upon
9 standards and methods as therein specified.

10 [Sec. 365. Rights to cease without compensation upon
11 termination.]

12 (4) At the termination of such [contract] agreement all the
13 rights or property of the grantee in the [streets of the city]
14 inalienable property of the city to which the franchise relates
15 shall cease without compensation.

16 [Sec. 366. Plant and appurtenances may inure to city upon
17 termination. a.]

18 (5) Any such [contract] agreement may provide that upon its
19 termination the property, plant and equipment of the grantee shall,
20 to the extent therein specified, thereupon be and become the
21 property of the city, either without compensation to the grantee
22 or on payment to the grantee of the fair value thereof as property,
23 to be determined as provided in the contract, but excluding any
24 value derived from the franchise. [b.] The city shall have the
25 option either to take and operate on its own account the property,
26 plant and equipment when so acquired, or to lease the same for a
27 term not exceeding twenty years or to require that the property of
28 the city be restored to its condition prior to the granting of the
29 franchise.

30 [Sec. 366-a. Review of proposals. a. A petition for a
31 franchise or revocable consent shall be filed with the board of
32 estimate, department of city planning and the bureau of
33 franchises.

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

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

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

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

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

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

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

17 (6) Every [contract] agreement granting a franchise for the
18 performance of any public service shall contain an agreement by
19 the grantee to recognize the right of its employees to bargain
20 collectively through representatives of their own choosing, and at
21 all times to recognize and deal with the representatives duly
22 designated or selected by the majority of its employees for the
23 purpose of collective bargaining in respect to rates of pay, wages,
24 hours of employment or other conditions of employment and not to
25 dominate, interfere with or participate in the management or
26 control of or give financial support to any union or association
27 of its employees. This subdivision shall not apply to a contract
28 providing for a modification or amendment of or extension of
29 service under a franchise not containing a similar provision,
30 provided that the term of such franchise is not extended thereby.

31
32 Sec. 364. Revocable consents. a. A revocable consent shall
33 not be granted for a use that would interfere with the use of
34 inalienable property of the city for public purposes, nor shall a

1 revocable consent be granted for a purpose for which a franchise
2 may be granted.

3 b. All revocable consents shall be revocable at any time by
4 the responsible agency, shall be granted for a fixed term, and
5 shall provide for adequate compensation to be annually provided to
6 the city during the continuance of the consent.

7 c. Revocable consents, other than for telecommunications
8 purposes, may be granted by the department of transportation with
9 respect to property under its jurisdiction or by such other agency
10 as may be authorized by law to grant revocable consents. Revocable
11 consents for telecommunications purposes may be granted by the
12 department of telecommunications. All revocable consents shall
13 require the approval of the department of transportation.

14 d. Every petition for the grant of a revocable consent shall
15 be filed with the department of transportation. Each petition
16 shall state the location of the proposed revocable consent and
17 shall be in such form and contain such other information as the
18 department of transportation and other responsible agencies, if
19 any, shall require by rule. Petitions for each type of revocable
20 consent shall be distributed to and reviewed by the agencies
21 required to do so by local law or executive order of the mayor.
22 If, in the judgment of the department of city planning, a proposed
23 revocable consent has land use impacts or implications, the
24 petition for the proposed revocable consent shall be subject to
25 review and approval pursuant to section one hundred ninety-seven-
26 c and section one hundred ninety-seven-d.

27 e. Notwithstanding any provision of this charter or the
28 administrative code, revocable consents to construct and operate
29 sidewalk cafes shall be reviewed pursuant to subchapter six of
30 chapter two of title twenty of the administrative code.

31 Sec. 365. Terms of agreements; enforcement. a. Every
32 agreement memorializing the terms and conditions of a franchise,
33 revocable consent or concession shall contain adequate provisions
34 by way of forfeiture or otherwise (1) to secure efficiency of

1 public service at reasonable rates, if a public service is to be
2 provided, (2) to assure the maintenance of the property of the city
3 in good condition throughout the term of the agreement, and (3) to
4 provide for adequate compensation to the city.

5 b. The responsible agency shall also monitor the performance
6 of the grantee and enforce the terms and conditions of any
7 franchise, revocable consent or concession under its jurisdiction.

8 Sec. 371. Public hearing on proposed [contract and resolution]
9 agreement; publication of notice. The [board of estimate shall,
10 not less than twenty-seven days after such entry and before
11 adopting any such resolution,] franchise and concession review
12 committee in the case of a franchise, or the responsible agency in
13 the case of a revocable consent, shall hold a public hearing
14 [thereon at which citizens shall be entitled to appear and be
15 heard] on the proposed agreement memorializing the terms and
16 conditions of each proposed franchise or revocable consent before
17 final approval of the proposed franchise or consent. Any such
18 public hearing conducted by the franchise and concession review
19 committee shall be held within thirty days of the filing with the
20 committee by the responsible agency of a proposed agreement
21 containing the terms and conditions of the proposed franchise. No
22 [such] hearing held by the franchise and concession review
23 committee or by the responsible agency shall be held until after
24 notice thereof and a summary of the terms and conditions of the
25 proposed [contract and proposed resolution authorizing the same]
26 agreement shall have been published [in full] for at least fifteen
27 days, except Sundays and legal holidays, immediately prior thereto
28 in the City Record, nor until a notice of such hearing, [together
29 with] indicating the place where copies of the proposed [contract
30 and resolution] agreement may be obtained by all those interested
31 therein, shall have been published at least twice at the expense
32 of the proposed grantee in [the] two newspapers [in which the
33 petition and notice of hearing thereon shall have been published
34 pursuant to section three hundred sixty-eight] designated by the

1 mayor which are published in the borough affected. Where only one
2 daily newspaper is published in the borough affected, the mayor
3 shall designate that newspaper together with a daily newspaper
4 published in the city of New York and having a circulation in the
5 borough affected. Where more than one borough is affected or where
6 no daily newspaper is published in the borough affected, the mayor
7 shall designate two daily newspapers published in the city and
8 having a circulation in the borough or boroughs affected.

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

13 Sec. 373.] Powers of the mayor. a. The separate and
14 additional approval of the mayor shall be necessary to the validity
15 of every [such resolution] franchise agreement and revocable
16 consent agreement.

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

24 Sec. 374. Revocable consents. Consent to construct and use
25 for private use pipes, conduits and tunnels under, railroad tracks
26 upon, and connecting bridges over, any of the streets of the city
27 shall be by resolution of the board of estimate, subject to the
28 uniform land use review procedure provided for in section one
29 hundred ninety-seven-c, for such term and upon such conditions as
30 may be provided in the resolution, but shall be revocable at any
31 time by resolution of the board of estimate. Such consents shall
32 provide for adequate compensation to be paid annually to the city
33 during the continuance of the consent, and the separate and
34 additional approval of the mayor shall be necessary to their

1 validity.]

2 Sec. 373. Franchise and concession review committee. a. A
3 franchise and concession review committee is hereby established.
4 The committee shall consist of the following officials or their
5 designees: the mayor, who shall serve as chair; the director of
6 the office of management and budget; the corporation counsel; the
7 comptroller; and one additional appointee of the mayor. Whenever
8 the committee reviews a proposed franchise or concession or the
9 procedures for granting a particular concession, the borough
10 president of the borough in which such franchise or concession is
11 located or his or her designee shall also serve as a member of the
12 committee. If such a franchise, concession or procedure relates
13 to more than one borough, the borough presidents of such boroughs
14 shall designate one of such borough presidents or another
15 individual to serve as a member of the committee for the purpose
16 of considering such matter.

17 b. The mayor shall designate a public officer or employee to
18 act as the clerk of the committee who shall be responsible for
19 maintaining the records and minutes of the committee and performing
20 such other duties as may be required.

21 c. The committee shall act by the affirmative vote of at least
22 four members except that the affirmative vote of at least five
23 members shall be required to approve a franchise agreement.

24 d. The committee shall:

25 (1) adopt rules establishing procedures for granting
26 concessions through public bidding or by other means designed to
27 ensure a competitive and fair process;

28 (2) review and approve the granting of concessions that are
29 proposed to be granted pursuant to procedures that differ from the
30 procedures established by the rules of the committee, provided,
31 however, that the committee need not review awards of concessions
32 that are not subject to renewal and have a term of less than thirty
33 days;

1 (3) determine whether each franchise agreement proposed by a
2 city agency is consistent with the request for proposal or other
3 solicitation pursuant to which such agreement was negotiated and
4 require appropriate modifications to any such agreements to correct
5 any significant inconsistencies; and

6 (4) review and approve the selection of franchisees pursuant
7 to subdivision f of section three hundred sixty-three.

8 Sec. 374. Concessions. a. No city agency shall grant a
9 concession without either complying with the procedures established
10 by the franchise and concession review committee or obtaining the
11 approval of the committee prior to granting the concession.

12 b. The city planning commission shall adopt rules that either
13 list major concessions or establish a procedure for determining
14 whether a concession is a major concession. A "major concession"
15 shall mean a concession that has significant land use impacts and
16 implications, as determined by the commission, or for which the
17 preparation of an environmental impact statement is required by
18 law. All major concessions shall be subject to review and approval
19 pursuant to section one hundred ninety-seven-c and section one
20 hundred ninety-seven-d.

21 Sec. 375. Registration with the comptroller. All agreements
22 memorializing the terms of franchises, revocable consents or
23 concessions shall be agreements subject to the applicable
24 registration requirements and other provisions of section three
25 hundred forty-eight except that the terms "vendor" and "contractor"
26 as used in section three hundred forty-eight shall be deemed to
27 apply to the holders of franchises, revocable consents and
28 concessions.

29 Sec. 376. Central file. Copies of all franchise and
30 revocable consent agreements shall be filed with the department of
31 transportation. The department of transportation shall compile and
32 keep up to date a listing of all current franchises and revocable
33 consents which shall be available to the public and shall include
34 the date, terms, names of the parties, description of the permitted

1 use and location of each franchise and revocable consent. Such
2 listing shall be arranged and indexed so as to enable a member of
3 the public to determine what current franchises and revocable
4 consents involving use or occupancy of streets and sidewalks have
5 been granted for any location in the city and the identity of the
6 holder of each such franchise or revocable consent.

7 Sec. 377. Bureau of Franchises. The bureau of franchises
8 shall be discontinued as of the first day of July, nineteen hundred
9 ninety. The records and staff of the bureau of franchises shall
10 be transferred to the department of transportation, except that the
11 records and staff of the bureau relating to telecommunications
12 franchises shall be transferred to the department of
13 telecommunications and the records relating to energy shall be
14 transferred to such agency as the mayor shall designate.

15 Sec. 378. Transition. a. All franchises, revocable consents
16 and concessions granted prior to the effective date of this section
17 shall remain in full force and effect for the terms which they were
18 granted.

19 b. Not later than the first day of March of nineteen hundred
20 ninety, the mayor shall designate a single agency as the
21 responsible agency for each type of franchise currently granted by
22 the city. If such an agency intends to continue granting any such
23 type of franchise, the agency shall submit to the council a
24 proposed authorizing resolution for such type of franchise at least
25 two years, or such shorter period as may be approved by the
26 franchise and concession review committee, prior to the earliest
27 expiration date of any existing franchise of that type; provided,
28 however, that such an agency, with the approval of the franchise
29 and concession review committee, may extend to the thirty-first
30 day of December of nineteen hundred ninety-two the expiration date
31 of any franchise which is scheduled to expire prior to that date,
32 if such an extension is necessary in order to provide the agency
33 with adequate time during which to prepare a proposed authorizing
34 resolution for the type of franchise involved.

1
2 CHAPTER 14-A

3 DEPARTMENT OF TELECOMMUNICATIONS
4

5 Sec. 379. Department; commissioner; powers. a. There shall
6 be a department of telecommunications, the head of which shall be
7 the commissioner of telecommunications.

8 b. Except as otherwise provided by law, the department shall
9 have the following powers and duties:

10 (1) to plan and coordinate telecommunications policy for the
11 city;

12 (2) to administer all franchises and revocable consents
13 relating to telecommunications pursuant to the provisions of
14 chapter fourteen, including, without limitation, proposing
15 authorizing resolutions for telecommunications franchises,
16 developing and issuing requests for proposals for
17 telecommunications franchises, selecting telecommunications
18 franchisees, reviewing and approving petitions for revocable
19 consents relating to telecommunications, negotiating the terms of
20 contracts or other agreements relating to telecommunications
21 franchises and revocable consents, and enforcing the terms and
22 conditions of such agreements;

23 (3) to develop municipal uses of cable television and
24 coordinate interagency uses of cable television and other
25 telecommunications;

26 (4) to ensure that priority is given on at least one
27 municipal channel to the cablecasting of the public proceedings of
28 the council and its committees, the city planning commission and
29 other state and city agencies; and

30 (5) to perform such other responsibilities with respect to
31 telecommunications matters, including responsibilities delegated
32 elsewhere by the charter, as the mayor shall direct.

33 c. The commissioner shall exercise the powers and duties of
34 the commission in a manner consistent with applicable federal and

1 state law.

2 Sec. 380. Telecommunications. "Telecommunications" shall
3 mean the transmission of writings, signals, pictures, numbers and
4 sounds or intelligence of all kinds by aid of wire, cable, optical
5 fiber, radio, satellite, electromagnetic wave, microwave or other
6 like connection between points of origin and reception of such
7 transmission, including all instrumentalities, facilities,
8 apparatus and services incidental to such transmission, but shall
9 not include emergency communications.

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 directions 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, waters, waterways 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

1 piers may be made as may be provided by law. Nothing herein
2 contained shall prevent the granting of franchises, permits and
3 licenses in respect to inalienable property.

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

9 b. Except as otherwise specifically provided by law:

10 1. The [board of estimate] mayor may authorize the sale or lease
11 only for the highest marketable price or rental, at public auction
12 or by sealed bids and after advertisement for at least thirty days
13 in the City Record, of any real property belonging to the city or
14 any interest therein [, and no]. No such sale or lease shall be
15 authorized until a public hearing has been held with respect to
16 such sale or lease after the publication of notice in the City
17 Record at least thirty days in advance of such hearing. No such
18 lease shall run for a term longer than ninety-nine years. Any
19 conveyance or lease may provide for the restriction of the use of
20 such real property [to purposes determined by the board of
21 estimate].

22 2. Real property of the city may be leased only after appraisal
23 made within [sixty days] six months prior to the authorization of
24 the lease by the [board of estimate] mayor, provided, however, that
25 advertisement for a public auction or for sealed bids shall be
26 commenced within sixty days of such authorization.

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

33 4. Notwithstanding the provisions of this charter, or any
34 general, special, or local law to the contrary, the [board of

1 estimate] mayor may, with the approval of a majority of the members
2 of the borough board of the borough in which such real property is
3 located, lease or sell any real property of the city, except
4 inalienable property or any interest therein, to a local
5 development corporation without competitive bidding and for such
6 purpose or purposes and at such rental or for such price as may be
7 determined by the [board of estimate] mayor to be in the public
8 interest, and no such lease shall run for a term longer than
9 ninety-nine years.

10 5. [Review by a community board or borough board of any
11 proposal or] Any application for the sale, lease (other than lease
12 of office space), exchange or other disposition of [city] real
13 property [or of property for the use] of the city shall be [in the
14 manner specified] subject to review and approval pursuant to
15 [section] sections one hundred ninety-seven-c and one hundred
16 ninety-seven-d. Such review shall be limited to the land use
17 impact and implications of the proposed transaction.

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

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

24 [6. The city planning commission shall act on any proposed
25 lease of property of or for the city within sixty days of filing
26 with it of the recommendation of a community board or borough
27 board, or the latest filing if there is more than one filing within
28 the time allowed under section one hundred ninety-seven-c. The
29 commission may waive a public hearing on any proposal or
30 application involving a lease of property.]
31

CHAPTER 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 or her, possess such of the powers and perform such of the duties of the corporation counsel as [he] the corporation counsel 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,

1 individually or by standard type of class, all contracts, leases and
2 other legal papers[; but the board of estimate may direct such
3 changes to be made in the form of contracts and specifications as
4 the interests of the city may in its judgment require].

5 c. Except as otherwise provided in this chapter or other law,
6 the corporation counsel shall have the right to institute actions
7 in law or equity and any proceedings provided by law in any court,
8 local, state or national, to maintain, defend and establish the
9 rights, interests, revenues, property, privileges, franchises or
10 demands of the city or of any part or portion thereof, or of the
11 people thereof, or to collect any money, debts, fines or penalties
12 or to enforce the laws. [He] The corporation counsel shall not be
13 empowered to compromise, settle or adjust any rights, claims,
14 demands, or causes of action in favor of or against the city, and
15 [he] shall not permit, offer or confess judgment against the city,
16 or accept any offer of judgment in favor of the city without the
17 previous approval of the comptroller, except that with regard to
18 matters involving excise and non-property taxes, such previous
19 written approval shall be obtained from the finance administrator;
20 provided, however, that this inhibition shall not operate to limit
21 or abridge the discretion of the corporation counsel in regard to
22 the proper conduct of [this] the trial of any action or proceeding
23 or to deprive such corporation counsel of the powers and privileges
24 ordinarily exercised in the courts of litigation by attorneys-at-law
25 when acting for private clients.

26 Sec. 395. Legal service to agencies. The corporation counsel
27 may assign an assistant or assistants to any agency. The head of
28 each agency, within appropriations for such purpose, may employ
29 staff counsel to assist in the legal affairs of the agency. No
30 officer or agency, except as provided in this chapter or otherwise
31 especially provided, shall have or employ any attorney or counsel,
32 except where a judgment or order in an action or proceeding may
33 affect [him] such officer or [them] agency individually or may be
34 followed by a motion to commit for contempt of court, in which case

1 [he] such officer or [they] agency may employ and be represented by
2 attorney or counsel at [his own or] their own expense.

3 Sec. 396. Actions and proceedings for recovery of penalties.
4 All actions and proceedings for the recovery of penalties for the
5 violation of any law shall be brought in the name of the city of
6 New York and not in that of any agency, except where otherwise
7 provided by law.

8 Sec. 397. Delegation of legal authority. a. The mayor may
9 delegate to any agency, after consultation with the corporation
10 counsel and the head of the agency, responsibility for the conduct
11 of routine legal affairs of the agency subject to standards,
12 policies, and guidelines of the corporation counsel, and consistent
13 with city-wide controls and uniformity. The mayor may transfer or
14 assign attorneys from the law department to the agency to assist
15 in the conduct of such delegated functions. The corporation
16 counsel shall monitor and evaluate on a regular and continuous
17 basis the exercise of authority delegated pursuant to this section
18 and the mayor, on recommendation of the corporation counsel, may
19 suspend or withdraw any delegated authority whenever in his or her
20 judgment the interests of the city justify such action.

21 b. Nothing contained in this section shall abrogate the
22 authority of the corporation counsel as attorney and counsel for
23 the city and every agency of the city.
24

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.

1 d. Not later than the twenty sixth day of April, the board of
2 education shall submit to the [board of estimate] mayor, the
3 borough presidents and the council an itemized statement, covering
4 those portions of the city's capital plant, as defined in section
5 eleven hundred ten-a, which have been committed to the care and
6 control of the board of education or officers or employees thereof,
7 by project type and, within project type, by personal services and
8 other-than-personal services, of the amounts appropriated for
9 maintenance of such portions of the capital plant in the previous
10 and current fiscal years as originally adopted and as modified
11 through the first nine months of the current fiscal year, and of
12 the amounts actually expended for such maintenance in the previous
13 fiscal year and through the first nine months of the current fiscal
14 year and the amounts estimated to be expended for such purpose
15 during the balance of the current fiscal year; and, an explanation
16 of the substantive differences, if any, between the amounts
17 actually expended for such maintenance in the previous fiscal year
18 or projected to be expended for such purpose in the current fiscal
19 year and the amounts originally appropriated for such purpose for
20 such years.

21 Sec. 522. Reports of board. The board of education shall on
22 or before the thirtieth day of November in each year make and
23 transmit to the mayor a report in writing, for the year ending on
24 the thirty-first day of July next preceding, stating the whole
25 number of schools under its jurisdiction during the said year; the
26 number of teachers; the total number of pupils on register, and the
27 average attendance at each school; the number of high schools and
28 training schools for teachers, with the number of teachers and the
29 attendance of pupils at each; the corporate schools or societies
30 from which reports have been made to the board of education, the
31 length of time such schools have been kept open, and the number of
32 teachers and of pupils taught in each such school and the total
33 amount of money expended for the purposes of public education in
34 the city during the preceding fiscal year. The board of education

1 shall also make in said reports such suggestions and
2 recommendations relative to the public schools of the city as it
3 may deem proper.

4 Sec. 523. Removal by mayor after hearing. Any member of the
5 board of education or of the local school board may be removed by
6 the mayor on proof of official misconduct in office or of
7 negligence in official duties or of conduct in any manner connected
8 with [his] official duties, or otherwise, which tends to discredit
9 [his] the office of such member or the school system, or for mental
10 or physical inability to perform [his] duties; but before removal
11 [he] such member shall receive notice in writing of the charges and
12 copy thereof, and shall be entitled to a hearing on notice before
13 the mayor and to the assistance of counsel at said hearing.

14 Sec. 526. Powers of investigation. The board of education
15 may investigate, of its own motion or otherwise either in the
16 board or by a committee of its own body, any subject of which it
17 has cognizance or over which it has legal control, including the
18 conduct of any of its members or employees or those of any local
19 school board; and for the purpose of such investigation, such
20 board or its president, or committee or its chairman, shall have
21 and may exercise all the powers which a board of education has or
22 may exercise in the case of a trial under the education law or the
23 civil practice law and rules. Any action or determination of a
24 committee appointed under the provisions of this section shall be
25 subject to approval or reversal by the board, which may also modify
26 the determination of the committee in such way as the board shall
27 deem proper and just, and the judgment of the board thereon shall
28 be final.

29 Sec. 527. Changes in state law. This chapter shall not prevent
30 the city from exercising any power now or hereafter conferred by
31 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 or her 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;

1 4. to plant and maintain trees and to construct, erect and
2 establish seats, drinking fountains, statues and works of art in
3 any place within his or her jurisdiction, and to determine when and
4 where lamps or lighting appliances shall be placed and lighted
5 therein and the design thereof;

6 5. to authorize and regulate the use of and the projections on
7 and determine the line or curb and the surface construction of all
8 streets and avenues lying within any park, square or public place
9 or within a distance of three hundred fifty feet from the outer
10 boundaries thereof;

11 6. to maintain buildings and structures now or hereafter erected
12 or established in any park, square, public place or playground
13 under his or her jurisdiction and to carry out and perform existing
14 contracts with corporations or institutions for the construction
15 and maintenance of such buildings and structures;

16 7. to provide the necessary instruments, furniture and equipment
17 for the several buildings and structures within his or her
18 jurisdiction and to develop and improve the same subject to the
19 provisions of law and existing contracts;

20 8. to have the management, direction and control of all real or
21 personal property granted, devised, bequeathed or conveyed to the
22 city for the extension, improvement or ornamentation of the parks,
23 squares or public places in the city or for the establishment or
24 maintenance, within the limits of any such park, square or public
25 place, of playgrounds, other recreational properties and other
26 facilities within the department's jurisdiction and upon such
27 trusts and conditions as may be prescribed by the grantors or
28 donors thereof and accepted by the commissioner, or proposed by the
29 commissioner and accepted by the grantors or donors thereof;

30 9. to establish and enforce rules and regulations for the use,
31 government and protection of public parks and of all property under
32 the charge or control of the department, which rules and
33 regulations so far as practicable shall be uniform in all boroughs
34 and shall have the force and effect of law. Any violation of such

1 rules or regulations shall be a misdemeanor triable by a judge of
2 the criminal court of the city of New York and punishable by not
3 more than ninety days imprisonment or by a fine of not more than
4 one thousand dollars or by both;

5 10. to plan, conduct, supervise, coordinate and promote
6 conservation, environmental, and nature education programs and
7 research and demonstration projects relating thereto and to plan,
8 acquire, design, construct, improve, alter, maintain and manage
9 areas and facilities for conservation and the preservation of
10 natural beauty; and subject to the approval of the mayor, undertake
11 to enter into arrangements with other city, state or federal
12 agencies and recommend to the mayor such arrangements with private,
13 voluntary or commercial agencies, to be entered into subject to the
14 provisions of law, for the performance of functions relating to
15 conservation and the preservation of natural beauty;

16 11. to plan, plant and maintain trees and other plantings and
17 to plan, acquire, design, construct, improve, alter, repair and
18 maintain works of art, as same are defined in subdivision a of
19 section eight hundred fifty-four of the New York city charter, on
20 or over the streets, avenues, squares, parks, docks, piers or other
21 public places belonging to the city, except as otherwise provided
22 by law; and, subject to the approval of the mayor, undertake to
23 enter into arrangements with other agencies of the city, state and
24 federal government and recommend to the mayor such arrangements
25 with private, voluntary or commercial agencies, to be entered into
26 subject to the provisions of law, for the performance of functions
27 relating to neighborhood beautification.

28 b. Recreation

29 1. to plan, acquire, construct, improve and manage facilities
30 for the recreation of the public;

31 2. to plan, develop, conduct and supervise recreation programs
32 for the public including research and demonstration projects
33 relating thereto;

1 3. to review and coordinate recreation activities and programs
2 and facilities conducted by agencies of the city and the budget
3 estimates submitted by such other agencies for such activities
4 and make such recommendations to the mayor with respect to them
5 as may be appropriate; and

6 4. to undertake, subject to the approval of the mayor, and to
7 enter into arrangements with other agencies of the city, state or
8 federal government and to recommend to the mayor such arrangements
9 with private, voluntary or commercial agencies to be entered into,
10 subject to the provisions of law, for the performance of any
11 recreation functions conferred upon the department by this chapter
12 or otherwise.

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1 shall serve as such, until a successor or successors are
2 designated. The commission shall appoint an executive director who
3 shall devote full time to his or her duties. The commission shall
4 submit an annual report on its activities to the mayor.

5 5. The commission may employ technical experts and such other
6 employees as may be required to perform its duties, within the
7 appropriations therefor.

8 6. The commission shall have such powers and duties as shall
9 be prescribed by law with respect to the establishment and
10 regulation of landmarks, portions of landmarks, landmark sites,
11 interior landmarks, scenic landmarks and historic districts.

12 7. In order to provide an opportunity for comment, in advance
13 of any hearing on a proposed designation of a landmark, landmark
14 site, interior landmark, scenic landmark or historic district, the
15 commission shall send a notice of the proposed designation and the
16 hearing to the city planning commission, all affected community
17 boards and the office of the borough president in whose borough the
18 property or district is located.

19 8. All landmarks, landmark sites, interior landmarks, scenic
20 landmarks and historic districts designated by the commission
21 pursuant to any applicable law shall be in full force and effect
22 from and after the date of the action of the commission. Within
23 ten days after making a designation, the commission shall file a
24 copy of such designation with the city planning commission and the
25 council. Within sixty days after such filing, the city planning
26 commission shall (a) hold a public hearing on any such designation
27 of a historic district and (b) shall submit to the council a report
28 with respect to the relation of any such designation, whether of
29 a historic district or a landmark, to the zoning resolution,
30 projected public improvements, and any plans for the development,
31 growth, improvement or renewal of the area involved. The city
32 planning commission shall include with any such report its
33 recommendation, if any, for council action with respect to any such
34 designation of a historic district.

1 9. The council may modify or disapprove by majority vote any
2 designation of the landmarks preservation commission within one
3 hundred twenty days after a copy of such designation is filed with
4 the council provided that the city planning commission has
5 submitted the report required above or that sixty days have elapsed
6 since the filing of the designation with the council. All votes
7 of the council pursuant to this section shall be filed by the
8 council with the mayor and shall be final unless disapproved by the
9 mayor within five days of such filing. Any such mayoral
10 disapproval shall be filed by the mayor with the council and shall
11 be subject to override by a two-thirds vote of the council within
12 ten days of such filing.

13 10. (a) There shall be a panel, independent of the
14 commission, consisting of five members appointed by the mayor with
15 the advice and consent of the council in accordance with the
16 procedures in section thirty-one. Such panel shall review appeals
17 from determinations of the commission denying applications for
18 certificates of appropriateness, based on the grounds of hardship,
19 to demolish, alter or reconstruct improvements that are exempt from
20 real property taxes, provided that such appeals may be brought only
21 with respect to applications made under applicable law on the
22 grounds of hardship applicable only to tax-exempt properties.

23 (b) Within a reasonable time period, the mayor shall submit
24 to the council a proposed local law establishing the procedure,
25 including the standard of review, for reviews by such panel. If
26 such a local law is not enacted within one year of the effective
27 date of this subdivision, the mayor shall promptly establish by
28 executive order the procedures for reviews by such panel. Such
29 panel shall not review appeals from determinations of the
30 commission until the effective date of such a local law or
31 executive order; provided, however, that any of the applications
32 described in paragraph a of this subdivision that are denied by the
33 commission after the first day of January, nineteen hundred ninety
34 and prior to the effective date of such local law or

1 executive order may be appealed to such panel during a sixty-day
2 period commencing on the effective date of such local law or
3 executive order.

4 (c) The provisions of this subdivision shall not be construed
5 to alter or amend the provisions of chapter three of title twenty-
6 five of the administrative code and the judicial interpretations
7 thereof.

8 (d) The failure to appeal to the panel for review of a
9 determination of the commission described in paragraph a of this
10 subdivision shall not preclude the commencement of a judicial
11 action or proceeding for review of such a determination; provided,
12 however, that no such action or proceeding may be brought during
13 the pendency of an appeal before the panel. Notwithstanding
14 anything to the contrary in this subdivision, the commencement of
15 a judicial action or proceeding for review of a determination of
16 the commission shall preclude the appeal of such a determination
17 to the panel. Any party, including the commission, aggrieved by
18 a final determination of the panel may commence a judicial action
19 or proceeding for review of such determination of the panel.

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] The executive director shall devote his or her entire time to the performance of his or her 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 or her 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 or her staff. [He] The executive director 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

1 years' experience as an engineer engaged in structural work. One
2 shall be a licensed professional engineer and shall have had at
3 least ten years' experience as an engineer engaged in mechanical
4 work. The mayor shall designate one of the members, who shall have
5 had the required experience as an architect, planner, or as an
6 engineer, to serve as [chairman] chair and shall designate one of
7 the members to serve as [vice-chairman] vice-chair who shall act
8 as [chairman] chair in the absence of the [chairman] chair or in
9 the event that a vacancy exists in the office of [chairman] chair.

10 c. Every member of the board shall receive a salary, which
11 shall not be reduced during his or her term of office except in
12 case of a general reduction of salaries and in proportion to
13 reductions of salaries of other officers with similar salaries.
14 A member shall not engage in any other occupation, profession or
15 employment. Members shall attend the hearings and executive
16 sessions of the board, and shall perform such other duties as may
17 be required by the [chairman] chair.

18 d. Vacancies shall be filled by the mayor for the unexpired
19 term of the member whose place has become vacant and with a person
20 having his or her qualifications.

21 Sec. 662. Removal by mayor after hearing. Any member may be
22 removed by the mayor on proof of official misconduct, or of
23 negligence in official duties, or of conduct in any manner
24 connected with his or her official duties which tends to discredit
25 his or her office, or of mental or physical inability to perform
26 his or her duties; but before removal he or she shall receive a
27 copy of the charges and shall be entitled to a hearing before the
28 mayor and to the assistance of counsel at such hearing.

29 Sec. 663. Meetings. Meetings of the board shall be held at
30 the call of the [chairman] chair and at such other times as the
31 board may determine. The [chairman] chair, or in his or her absence
32 the acting [chairman] chair, may administer oaths and compel the
33 attendance of witnesses. All hearings before the board shall be
34 open to the public and shall be before at least four members of the

1 board, and a concurring vote of at least four members shall be
2 necessary to a decision to grant an application or an appeal, to
3 revoke or modify a variance, special permit or other decision of
4 the board, or to make, amend or repeal a rule or regulation. The
5 board shall keep minutes of its proceedings, showing the vote of
6 each member upon every question, or if absent or failing to vote,
7 indicating such fact, and shall also keep records of its
8 examinations and other official action. Such minutes and such
9 records shall be public records.

10 [Sec. 664. Member interested in question. No member of the
11 board shall pass upon any question in which he or any corporation
12 in which he is a stockholder or security holder is interested.]

13 Sec. 665. Rules and regulations; bulletin. a. Every rule or
14 regulation and every amendment or repeal thereof, and every order,
15 requirement, decision or determination of the board shall
16 immediately be filed in the office of the board and shall be a
17 public record.

18 b. The director shall print and publish weekly a bulletin in
19 which the director shall publish every rule, regulation, amendment
20 or repeal thereof made by the board, and every order, requirement,
21 decision and determination of the board, and the reasons therefor
22 whenever it shall deem it practical to do so, and such other
23 matters, including indices and digests, as the director may deem
24 it advisable to publish.

25 c. Every amendment or repealer to the reference standards of
26 the building code of the city of New York shall be published
27 forthwith in the City Record.

28 Sec. 666. Jurisdiction. The board shall have power:

29 1. To require the testing of and to approve, materials and
30 appliances to be used pursuant to law.

31 2. To make, amend and repeal rules and regulations for carrying
32 into effect the provisions of the laws, resolutions, rules and
33 regulations in respect to any subject-matter jurisdiction whereof
34 is conferred by law upon the board, and to include in such rules

1 and regulations provisions applying to specific conditions and
2 prescribing means and methods of practice to effectuate such
3 provisions and for carrying into effect the powers of the board.

4 3. To make, amend and repeal rules and regulations for the
5 enforcement of those provisions of the labor law and other laws
6 which relate to the construction or alteration of, structural
7 changes in, plumbing and drainage of, elevators in, fire escapes
8 on, adequacy and means of exit from, or fire protection in, all
9 buildings within the city, which shall take the place of the
10 industrial code and of any rules and regulations of the department
11 of labor of the state of New York relating to the same
12 subject-matter.

13 4. To make, amend and repeal rules, regulations and directives
14 governing the preparation and presentation by the director of
15 matters before the board.

16 5. To exercise exclusively with respect to buildings situated
17 within the city, the same powers as are exercised by the department
18 of labor of the state of New York elsewhere in the state.

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

22 7. To hear and decide appeals from and review,

23 (a) except as otherwise provided by law, any order, requirement,
24 decision or determination of the commissioner of buildings or any
25 borough superintendent of buildings acting under a written
26 delegation of power from the commissioner of buildings filed in
27 accordance with the provisions of subdivision (b) of section six
28 hundred forty-five, or

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

32 (c) any order, requirement, decision or determination of the
33 commissioner of transportation or the commissioner of ports [,
34 international] and trade [and commerce] made in relation to the

1 structures or uses on water front property under his or her
2 jurisdiction in connection with the application or enforcement of
3 the provisions of the zoning resolution of the city of New York,
4 the labor law and such other laws, rules and regulations as may
5 govern the construction, alteration, maintenance, use, occupancy,
6 safety, sanitary conditions, mechanical equipment and inspection
7 of structures in the city,

8 under the authority conferred upon them by law, by reversing or
9 affirming in whole or in part, or modifying the order, regulation,
10 decision or determination appealed from, and to make such order,
11 requirement, decision or determination as in its opinion ought to
12 be made in the premises, and to that end shall have the power of
13 the officer from whose ruling the appeal is taken, and of any
14 officer under whose written delegation of power such ruling was
15 made.

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

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

1 provisions of this chapter relating to appeals to the board shall
2 be applicable to such review.

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

9 11. To issue such special permits as the board is authorized to
10 issue under the zoning resolution [as are authorized by the city
11 planning commission and the board of estimate].

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

15 Sec. 667. Inspections. Any member of the board or any
16 subordinate thereof shall, when authorized in writing by the
17 [chairman] chair, and the director or any officer or employee
18 designated by [him] the chair in writing shall have power at any
19 time to enter, inspect and examine any premises, buildings,
20 structures, vehicles or vessels for the purpose of carrying out the
21 duties of the board and shall report his or her findings in writing
22 to the board. Refusal to permit such entry shall be triable by a
23 judge of the New York city criminal court and punishable by not
24 more than thirty days' imprisonment, or by a fine of not more than
25 fifty dollars, or both.

26 Sec. 668. Variances and special permits.

27 a. Community boards and borough boards shall review
28 applications to vary the zoning resolution and applications for
29 special permits within the jurisdiction of the board of standards
30 and appeals under the zoning resolution pursuant to the following
31 procedure:

32 1. Each proposal or application shall be filed with the board
33 of standards and appeals, which shall forward a copy within five
34 days to the community board for each community district in which

1 the land involved, or any part thereof, is located, and to the
2 borough board if the proposal or application involves land located
3 in two or more districts in a borough.

4 2. Each such community board shall, not later than sixty days
5 after the receipt of the proposal or application, either notify
6 the public of the proposal or application, in the manner specified
7 by the city planning commission pursuant to subdivision [g] i of
8 section one hundred ninety-seven-c, conduct a public hearing
9 thereon and prepare and submit a written recommendation thereon
10 directly to the board of standards and appeals, or waive the
11 conduct of such public hearing and the preparation of such written
12 recommendation.

13 3. A copy of a recommendation or waiver by a community board
14 pursuant to paragraph two of this subdivision that involves land
15 located within two or more community districts in a borough shall
16 also be filed with the borough board within the same time period
17 specified in that paragraph. Not later than thirty days after the
18 filing of such a recommendation or waiver with the borough board
19 by every community board in which the land involved is located or
20 after the expiration of the time allowed for such community boards
21 to act, the borough board may hold a public hearing on the proposal
22 or application and any such recommendation and may submit a written
23 recommendation or a waiver thereof to the board of standards and
24 appeals.

25 4. The receipt of such a recommendation or waiver from every
26 community or borough board involved, or the expiration of the
27 time allowed for such boards to act, shall constitute an
28 authorization to the board of standards and appeals to review the
29 application and to make a decision.

30 5. If after the receipt of such a recommendation or waiver from
31 every community or borough board involved, or the expiration of the
32 time allowed for such boards to act, the applicant for a special
33 permit or variance submits to the board of standards and appeals
34 any additional documents or plans, he or she shall at the same time

1 forward copies of such documents or plans to the city planning
2 commission, the council member involved and to the community or
3 borough board involved.

4 6. Copies of any written information submitted by an
5 applicant for purposes of determining whether an environmental
6 impact statement will be required by law in connection with an
7 application under this section, and any documents or records
8 intended to define or substantially redefine the overall scope of
9 issues to be addressed in any draft environmental impact statement
10 shall be delivered to all affected community boards and borough
11 boards.

12 7. If a meeting involving a city agency and an applicant is
13 convened to define or substantially redefine the overall scope of
14 issues to be addressed in any draft environmental impact statement
15 required by law for an application subject to review under this
16 section, each affected community board involved and each borough
17 president involved shall receive advance notice of such meeting,
18 and each shall have the right to send one representative to the
19 meeting.

20 b. The recommendation of a community board or borough board
21 pursuant to subdivision a of this section shall be filed with the
22 board of standards and appeals and a copy sent to the city planning
23 commission. The board of standards and appeals shall conduct a
24 public hearing and act on the proposed application. A decision of
25 the board shall indicate whether each of the specific requirements
26 of the zoning resolution for the granting of variances has been met
27 and shall include findings of fact with regard to each such
28 requirement.

29 c. Copies of a decision of the board of standards and appeals
30 and copies of any recommendation of the affected community board
31 or borough board shall be filed with the city planning commission
32 [and the board of estimate]. Copies of the decision shall also be
33 filed with the affected community or borough boards. [Within
34 thirty days of such decision, an appeal may be taken to the board

1 of estimate by an applicant or other interested party, community
2 board or borough board. In the event of an appeal, the board of
3 estimate, in its discretion, may accept jurisdiction in such matter
4 within thirty days after the filing of the appeal and shall render
5 a decision within thirty days after accepting jurisdiction. In the
6 case of an application to determine and vary the zoning resolution,
7 review by the board of estimate shall be limited to an
8 administrative determination as to whether the decision of the
9 board of standards and appeals under each of the specific
10 requirements of the zoning resolution was supported by substantial
11 evidence before the board of standards and appeals. The board of
12 estimate may approve or disapprove such decision and shall provide
13 written findings and an explanation of the basis for its decision
14 under the zoning resolution.]

15 d. Any decision of the board of standards and appeals [or of
16 the board of estimate] pursuant to this section may be reviewed as
17 provided by law.

18 e. The city planning commission shall be a party to any
19 proceeding to determine and vary the application of the zoning
20 resolution. The commission may appear and be heard on any
21 application pursuant to this section before the board of standards
22 and appeals [or the board of estimate] if, in the judgment of the
23 planning commission, the granting of relief requested in such
24 application would violate the requirements of the zoning resolution
25 relating to the granting of variances. The commission [may appeal
26 to the board of estimate the granting or denial of any such
27 variance by the board of standards and appeals and] shall have
28 standing to challenge the granting or denial of a variance in a
29 proceeding brought pursuant to article seventy-eight of the civil
30 practice law and rules, or in any similar proceeding.

31 Sec. 669. Procedure on appeals. a. An appeal may be taken by
32 any person aggrieved or by the head of any agency.

33 b. Such appeal may be taken within such time as shall be
34 prescribed by the board by general rule, by filing with the officer

1 from whom the appeal is taken and with the board a notice of
2 appeal, specifying the grounds thereof. The officer from whom the
3 appeal is taken shall forthwith transmit to the board all the
4 papers constituting the record upon which the action appealed from
5 was taken.

6 c. The board shall fix a reasonable time for the hearing of
7 appeals, and give due notice thereof to the parties, and decide
8 the same within a reasonable time. If the appeal is from an order
9 revoking a permit or approval, the hearing shall be had no later
10 than at the third scheduled hearing of the board following the date
11 of filing of the appeal, or five weeks following such date,
12 whichever is sooner, and the decision of the board shall be
13 rendered expeditiously. Upon the hearing any party may appear in
14 person or by agent or attorney.

15 d. Any decision of the board under this section may be reviewed
16 as provided by law.

CHAPTER 29

DEPARTMENT OF PORTS AND TRADE

Sec. 701. Department; commissioner; seal. There shall be a department of ports and trade, the head of which shall be the commissioner of ports and trade. The commissioner may adopt a seal for the department and direct its use.

Sec. 702. Deputies. The commissioner may appoint three 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 or her 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

1 more than thirty days prior thereto, may withdraw from the
2 jurisdiction of the department and assign for use for any public
3 purpose or assign to the jurisdiction of any other agency any
4 wharf property or water front property owned by the city and not
5 under lease;]

6 (c) to have exclusive power to regulate water front property
7 and the following structures on any water front property:
8 wharves, piers, docks, bulkheads, structures wholly or partly
9 thereon, and such other structures used in conjunction with and
10 in furtherance of water front commerce and/or navigation;

11 (d) to have the exclusive power to enforce with respect to
12 public markets, water front property and any structures on water
13 front property under its jurisdiction, the labor law and such
14 other laws, rules and regulations as may govern the dredging,
15 filling, removal, construction, alteration, maintenance, use,
16 occupancy, safety, sanitary conditions, mechanical equipment and
17 inspection of structures in the city, and the issuance of permits
18 and certificates of completion in reference thereto, and to
19 establish or amend fees to be charged for the issuance of such
20 permits or certificates of completion, which fees shall be [fixed
21 by the board of estimate on recommendation of the commissioner
22 after a public hearing, notice of which shall be given by
23 publication in the City Record for the five days of publication
24 of the City Record immediately prior thereto] established by
25 rules of the commissioner;

26 (e) to have exclusive power to regulate the use of marginal
27 streets so that they may be used to the best advantage in
28 connection with wharf property and to regulate by license or
29 otherwise the transfer of goods and merchandise upon, over or
30 under all such marginal streets;

31 (f) to administer and enforce the provisions of the zoning
32 resolution of the city of New York in respect to the following
33 structures on any water front property: wharves, piers, docks,
34 bulkheads, structures wholly or partly thereon, and such other

1 structures used in conjunction with and in furtherance of water
2 front commerce and/or navigation in the same manner and in
3 accordance with the same procedure as is prescribed therein;

4 (g) to lease, subject to the approval of the [board of
5 estimate] council, any wharf property belonging to the city
6 primarily for purposes of water front commerce or in furtherance
7 of navigation and to lease, pursuant to section three hundred
8 eighty-four and subject to review and approval pursuant to
9 sections one hundred ninety-seven-c and one hundred ninety-seven-
10 d, any wharf property belonging to the city for any other
11 purpose. All such leases shall be for such terms and [in such
12 manner] shall contain such conditions as may be provided by law.
13 [Such leases] Leases of wharf property for purposes of water
14 front commerce or in furtherance of navigation may be sold at
15 public auction duly advertised in the City Record for at least
16 ten days prior thereto, and if not so sold the terms of any lease
17 must be approved by the [board of estimate] council by a
18 three-fourths vote after a public hearing, notice of which shall
19 be published in the City Record for the six days of publication
20 of the City Record immediately prior thereto. [If the department
21 fails to agree upon terms of a lease with any person desiring to
22 lease any wharf property, it shall, if the offer be made in
23 writing, decline it in writing and such person may submit his
24 proposed lease to the board of estimate at its next regular
25 meeting, and if the board accepts the same by a three-fourths
26 vote at such meeting or any one of its three regular meetings
27 next succeeding thereto, the department shall promptly execute
28 such lease] The council shall act within forty-five days of the
29 filing of the proposed terms and conditions of any such lease
30 with the council. Failure of the council to act on a lease within
31 such forty-five-day period shall be deemed to be an approval of
32 such lease. All votes of the council pursuant to this
33 subdivision shall be filed by the council with the mayor and
34 shall be final unless disapproved by the mayor within five days

1 of such filing except that there shall be no right of mayoral
2 disapproval if a three-fourths vote of the council is required
3 pursuant to this subdivision. Any such mayoral disapproval shall
4 be filed by the mayor with the council and shall be subject to
5 override by a two-thirds vote of the council within ten days of
6 such filing;

7 (h) to grant temporary permits terminable at will for a period
8 not exceeding one year to use and occupy any wharf property
9 belonging to the city;

10 (i) to set aside by order any wharf property belonging to the
11 city, which has not been leased, for general wharfage purposes or
12 for the use of any special kind of commerce, or of any class of
13 vessel, or of any agency, and to revoke or modify such order as
14 to any such wharf property at any time;

15 (j) to regulate [, subject to the approval of the board of
16 estimate,] the charges for wharfage, cranage and dockage of all
17 vessels or floating structures using any wharf property set aside
18 under subdivision (i) of this section, provided that the rates
19 which it shall be lawful to charge for wharfage, cranage and
20 dockage from any vessel or floating structure which makes use of
21 any other wharf property within the port of New York shall be
22 fixed by [the board of estimate after public hearing on
23 recommendation] rules of the [department] commissioner;

24 (k) to establish, amend and enforce all needful rules [and
25 regulations] for the proper care of all public markets, wharf
26 property, waterfront property and all airports, airplane landing
27 sites, seaplane bases and heliports owned or possessed by the
28 city and placed in his or her charge or over which he or she
29 shall have power of regulation and to issue such orders as may be
30 necessary for such enforcement. The violation of or the failure
31 to comply with any such order [,] or rule [or regulation] shall
32 be triable in criminal court and punishable, upon conviction, by
33 not more than thirty days imprisonment or by a fine of not less

1 than one hundred dollars nor more than five thousand dollars, or
2 both;

3 (l) to sell[, subject to the approval of the board of
4 estimate,] buildings, structures and other improvements on market
5 property and wharf property to a person leasing such property
6 pursuant to subdivisions (a) and (g) of this section; provided,
7 however, that any such sale of improvements shall be subject to
8 the procedure for review and approval applicable to the lease
9 related to the improvements;

10 (m) to manage and promote the economic development of all
11 airports, airplane landing sites, seaplane bases and heliports
12 owned or possessed by the city; and to lease any part of such
13 property [in the same manner as wharf property], subject to the
14 provisions of section three hundred eighty-four and to review and
15 approval pursuant to sections one hundred ninety-seven-c and one
16 hundred ninety-seven-d;

17 (n) to have charge and control of the regulation for the
18 health and safety of the general public of all airports, airplane
19 landing sites, seaplane bases, heliports, marginal streets and
20 parking facilities appurtenant thereto owned or possessed by the
21 city;

22 (o) to have the exclusive power to regulate all privately
23 owned airports, airplane landing sites, seaplane bases and
24 heliports and the operation out of and into such bases as well as
25 the control of ground effect craft and aircraft operations to or
26 from other sites within the city not so designated as airports,
27 heliports, airplane landing sites or seaplane bases;

28 (p) to promote and encourage the expansion and development of
29 the city as a center for intrastate, interstate and international
30 overland freight transportation;

31 (q) to promote, coordinate and implement activities, projects
32 and programs designed to attract foreign direct investment and
33 promote overseas sales by firms in the city and to otherwise
34 encourage, stimulate and foster the well-being, development,

1 growth and expansion of international business, commerce, and
2 trade in the city; and

3 (r) to administer and promote the development of foreign trade
4 zones within the city.

5 Sec. 705. Water front plans. (a) The plans for the water
6 front of the city are continued in effect and may be changed by
7 the commissioner [with the approval of the board of estimate
8 after a public hearing before the board. Notice of such hearing
9 shall be published in the City Record for the seven days of
10 publication of the City Record immediately prior thereto]
11 pursuant to the procedure provided for in this subdivision. Such
12 change shall take effect notwithstanding that any plan may have
13 been wholly or partially physically perfected and improvements
14 made in conformity therewith. The [board of estimate, before
15 approving any change, shall refer it to the city planning
16 commission, and the] procedure [thereafter] for review and
17 approval of any such change to the plans for the water front
18 shall be the same as in case of a change in the city map [not
19 initiated by the city planning commission]. The commissioner may
20 apply to the city planning commission to incorporate the plans
21 for the water front or any portion thereof into the city map
22 pursuant to the procedure for review and approval of a change to
23 the city map. Any plans for the water front or portions thereof
24 so incorporated shall thereafter be discontinued as separate
25 plans.

26 (b) No wharf, pier, bulkhead, basin, dock, slip, marginal
27 street or other structure shall be laid out, built, or rebuilt in
28 the port of New York in the area included in such plans except in
29 accordance with such plans as changed from time to time,
30 provided, that the commissioner, with the approval of the [board
31 of estimate] council, may from time to time change the width or
32 location of any of the piers laid down on such plans and build or
33 rebuild temporary wharf structures or license or permit the
34 building or rebuilding thereof as may be provided by law.

1 (c) The commissioner may widen, open, construct, abandon or
2 close any marginal street or avenue included in such plans and
3 shall maintain the widened portion of such street or avenue, or
4 the new street or avenue as a marginal street, and such new
5 street, or such a widened street to the extent of the portion so
6 widened, shall not be a public street. Before acting under this
7 subdivision, the commissioner shall make a report to the city
8 planning commission including a map showing any proposed change
9 and such other information as the chair of the city planning
10 [commissioner] commission shall require. If the city planning
11 commission makes a finding that the proposed change is in
12 accordance with the water front plan or approves the change, the
13 commissioner may proceed with it, but if the city planning
14 commission makes a finding that it is not in accordance with such
15 plan and disapproves the change, then the commissioner shall not
16 proceed unless the [board of estimate by a three-fourths vote]
17 council by a two-thirds vote authorizes the commissioner to
18 proceed. The city planning commission shall act on such change
19 within six weeks from the time when it is filed in the office of
20 the commission and if it does not act within such weeks the
21 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] the mayor 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.

1 b. The commissioner may adopt regulations specifying the kind
2 of ashes, garbage, refuse, rubbish or other material or substance
3 that will be collected by the city, from whom it will be taken,
4 the manner in which it shall be arranged or sorted, the time when
5 it will be collected and the place at which it shall be deposited
6 for collection, and may prescribe civil penalties for violations
7 thereof.

8 c. Such regulations shall be enforced by order of the
9 commissioner. Such order shall be addressed to the owner or
10 owners, lessees or occupants of the building, structure,
11 enclosure, vessel, place or premises affected thereby. It shall
12 not be necessary to designate such owner or owners, lessees or
13 occupants by name in such order, however the premises shall be
14 designated in the address so that the same may be readily
15 identified. Service of any such order may be made by delivery of
16 a copy thereof to the owner or any one of several owners, to a
17 lessee or any one of several lessees, or to any person of
18 suitable age or discretion in charge of the premises, or if no
19 person be found in charge of the premises, then by affixing a
20 copy of such order prominently upon the premises. If such order
21 is not complied with within the time specified therein, the
22 commissioner shall prosecute the person or corporation liable
23 therefor for the penalty prescribed by the regulation violated in
24 furtherance of which such order shall have been issued and served.

25 d. The commissioner may adopt regulations controlling the use
26 of sidewalks and gutters by abutting owners and occupants for the
27 disposition of sweepings, garbage, refuse or rubbish, and may
28 provide that the violation thereof shall be punishable by civil
29 penalty, fine or imprisonment. Such regulations shall be submitted
30 to the council and when approved by it shall be published and
31 enforced in like manner as local laws.

32 Sec. 754. Duties and obligations of property owner with
33 respect to keeping vacant lots clean. Notwithstanding any
34 provision of law, the owner of any property at [his] such owner's

1 own cost shall keep any vacant lot or lots on such property in a
2 clean and sanitary manner and free of debris and other litter. The
3 department of sanitation shall be responsible for the enforcement
4 of this section and may issue rules and regulations in furtherance
5 of such authority. In the event that an owner of property fails
6 to comply with the provisions of this section, or the rules and
7 regulations of such department, the department may provide for the
8 cleaning of a vacant lot at the expense of the property owner in
9 the manner to be provided by local law.

10 Sec. 755. Definition. When used in this chapter "street"
11 includes street, avenue, road, alley, lane, highway, parkway,
12 boulevard, concourse, driveway, culvert and crosswalk, and every
13 class of public road, square and place, except a wharf, pier,
14 bulkhead or slip by law committed to the custody and control of
15 any other agency.

1 CHAPTER 34
2 DEPARTMENT OF INVESTIGATION

3 Sec. 801. Department; commissioner. There shall be a
4 department of investigation the head of which shall be the
5 commissioner of investigation. He shall be a member of the bar of
6 the state of New York in good standing and shall have had at least
7 five years of law enforcement experience. The mayor may remove the
8 commissioner upon filing in the office of personnel director and
9 serving upon the commissioner the reasons therefor and allowing
10 such officer an opportunity of making a public explanation.

11 Sec. 802. Deputies. The commissioner may appoint two deputies,
12 either of whom may, subject to the direction of the commissioner,
13 conduct or preside at any investigations authorized by this
14 chapter.

15 Sec. 803. Powers and duties. a. The commissioner shall make
16 any investigation directed by the mayor or the council.

17 b. The commissioner is authorized and empowered to make any
18 study or investigation which in his opinion may be in the best
19 interests of the city, including but not limited to investigations
20 of the affairs, functions, accounts, methods, personnel or
21 efficiency of any agency.

22 c. For any investigation made pursuant to this section, the
23 commissioner shall prepare a written report or statement of
24 findings and shall forward a copy of such report or statement to
25 the requesting party, if any. In the event that the matter
26 investigated involves or may involve allegations of criminal
27 conduct, the commissioner, upon completion of the investigation,
28 shall also forward a copy of his written report or statement of
29 findings to the appropriate prosecuting attorney, or, in the event
30 the matter investigated involves or may involve a conflict of
31 interest or unethical conduct, to the board of ethics.

32 d. The jurisdiction of the commissioner shall extend to any
33 agency, officer, or employee of the city, or any person or entity

1 doing business with the city, or any person or entity who is paid
2 or receives money from or through the city or any agency of the
3 city.

4 Sec. 804. Complaint bureau. There shall be a complaint bureau
5 in the department which shall receive complaints from the public.

6 Sec. 805. Conduct of investigations. a. For the purpose of
7 ascertaining facts in connection with any study or investigation
8 authorized by this chapter, the commissioner and each deputy shall
9 have full power to compel the attendance of witnesses, to
10 administer oaths and to examine such persons as he may deem
11 necessary.

12 b. The commissioner or any agent or employee of the department
13 duly designated in writing by him for such purposes may administer
14 oaths or affirmations, examine witnesses in public or private
15 hearing, receive evidence and preside at or conduct any such study
16 or investigation.

17 Sec. 807. Inspectors general of agencies. No person shall be
18 appointed as an inspector general of a city agency unless such
19 appointment is approved by the commissioner of investigation. The
20 commissioner of investigation shall promulgate standards of conduct
21 and shall monitor and evaluate the activities of inspectors general
22 in the agencies to assure uniformity of activity by them.

1 CHAPTER 35

2 PERSONNEL MANAGEMENT

3
4 Sec. 810. Declaration of intent. a. The personnel policies
5 and practices of the city government in furtherance of this
6 charter, the civil service law and rules and other applicable law
7 shall: (1) preserve and promote merit and fitness in city
8 employment; (2) ensure that appointments and promotions in city
9 service are made, and that wages are set, without regard to
10 political affiliation, and without unlawful discrimination based
11 on sex, race, color, religion, religious observance, national
12 origin, disability, age, marital status, citizenship status or
13 sexual orientation; and promote and support the efficient and
14 effective delivery of services to the public.

15 b. Consistent with subdivision a of this section, the heads of
16 city agencies shall have such powers, duties and responsibilities
17 for personnel management as they shall require to administer their
18 agencies effectively and to supervise, evaluate, motivate,
19 discipline, provide incentives for and improve the skills of
20 employees of the city.

21 Sec. 811. Department; personnel director. There shall be a
22 department of personnel, the head of which shall be the personnel
23 director. The personnel director shall have all the powers and
24 duties of a municipal civil service commission provided in the
25 civil service law or in any other statute or local law other than
26 such powers and duties as are by this chapter assigned to the
27 mayor, the city civil service commission or the heads of city
28 agencies.

29 Sec. 812. City civil service commission. a. There shall be
30 a city civil service commission, consisting of five members, not
31 more than three of whom shall be members of the same political
32 party. Members shall be appointed by the mayor, from a list of
33 nominations provided by the screening committee established
34 pursuant to subdivision b of this section, for overlapping terms

1 of six years. Of the members first appointed, two shall serve for
2 two years and two for four years and one for six years. The
3 members shall be removable in the manner provided for members of
4 a municipal civil service commission in the civil service law. A
5 vacancy in such commission shall be filled in the same manner as
6 regular appointments for the balance of the unexpired term. The
7 mayor shall designate a member as chair and vice chair,
8 respectively, for one-year terms. Within appropriations for such
9 purposes, the members of the commission shall be reimbursed on a
10 per diem basis for attendance at regularly scheduled meetings and
11 hearings of the commission.

12 b. There shall be a screening committee which shall submit to
13 the mayor a list of nominees, which shall include persons with
14 knowledge or experience of the civil service system, or personnel
15 management, or compensation practices, from which the mayor shall
16 make appointments to the city civil service commission. Such
17 screening committee shall consist of six members, of whom four
18 shall be appointed by the mayor and two shall be appointed by the
19 municipal labor committee. The screening committee shall submit the
20 list of nominees upon the occurrence of any vacancy on the
21 commission or at least three months prior to the expiration of the
22 term of any incumbent member.

23 c. The commission shall appoint a counsel, who shall not be
24 employed or retained by any other city agency, and may appoint a
25 secretary and such other subordinates as may be necessary within
26 the appropriation therefor.

27 d. The civil service commission shall have the power to hear
28 and determine appeals by any person aggrieved by any action or
29 determination of the personnel director made pursuant to
30 paragraphs three, four, five, six, seven and eight of subdivision
31 a or paragraph five of subdivision b of section eight hundred
32 thirteen of this chapter and may affirm, modify, or reverse such
33 action or determination. Any such appeal shall be taken by
34 application in writing to the commission within thirty days after

1 the action or determination appealed from. The commission shall
2 also have the powers and responsibilities of a municipal civil
3 service commission under section seventy-six of the state civil
4 service law. In accordance with the requirements of chapter forty-
5 five of the charter, the commission shall promulgate rules of
6 procedure, including rules establishing time schedules, for the
7 hearings and determinations authorized by this section.

8 e. The commission, on its own initiative, or upon request of
9 the mayor, council or personnel director, shall have the power
10 and duty to conduct reviews, studies, or analyses of the
11 administration of personnel in the city, including the
12 classification of titles by the personnel director.

13 f. The commission shall prepare and transmit directly to the
14 mayor departmental estimates as required by section sixty-two of
15 the charter. The mayor shall include such proposed appropriations
16 for the commission as a separate agency in the preliminary and
17 executive budgets as are sufficient for the commission to fulfill
18 the obligations assigned to it by this charter or other law.

19 Sec. 813. Personnel director; powers and duties. a. The
20 personnel director shall have the following powers and duties in
21 addition to the powers and duties of a municipal civil service
22 commission provided in the civil service law, and those vested in
23 the personnel director as the head of the department, except where
24 any specific power or duty is assigned to the mayor, heads of city
25 agencies or the civil service commission pursuant to this chapter:

26 (1) To recruit personnel;

27 (2) To make studies in regard to the grading and classifying
28 of positions in the civil service, establish criteria and
29 guidelines for allocating positions to an existing class of
30 positions, and grade and establish classes of positions;

31 (3) To schedule and conduct examinations for positions in the
32 civil service;

33 (4) To establish, promulgate and certify eligible lists in the
34 manner provided in the civil service law, and the rules of the

1 personnel director;

2 (5) To determine the appropriateness of eligible lists for the
3 filling of vacancies in the manner provided in the civil service
4 law and the rules of the personnel director;

5 (6) To investigate applicants for positions in the civil
6 service; to review their qualifications, and to revoke or rescind
7 any certification or appointment by reason of the disqualification
8 of the applicant or appointee under the provisions of the civil
9 service law, and the rules of the personnel director or any other
10 law;

11 (7) To review any appointment of persons as provisional
12 employees within sixty days after appointment to assure compliance
13 with this charter, the civil service law, and any rule or
14 regulation issued pursuant to this charter or civil service law;

15 (8) To certify payrolls in accordance with the provisions of
16 the civil service law and the rules of the personnel director;

17 (9) To keep records regarding candidates for appointment to
18 the civil service and officers and employees in the civil service;

19 (10) To develop and recommend to the mayor standard rules
20 governing working conditions, vacations and leaves of absence; and
21 career, salary and wage plans providing for the creation, abolition
22 and modification of positions and grades and fixing salaries of
23 persons paid from the city treasury, subject to the provisions of
24 this charter, the civil service law, other applicable statutes and
25 collective bargaining agreements;

26 (11) To administer the city-wide incentive, training and
27 development, and other such personnel programs of the city;

28 (12) To establish and enforce uniform procedures and standards
29 to be utilized by city agencies in establishing measures, programs
30 and plans to ensure a fair and effective affirmative employment
31 plan for equal employment opportunity for minority group members
32 and women who are employed by, or who seek employment with, city
33 agencies. Such procedures shall include a time schedule for the
34 development of such plans which provides for the preparation by

1 each agency of a draft plan, the review of such draft plan by the
2 department of personnel, the equal employment practices commission,
3 and such other agency as the mayor requires, and the consideration
4 by the agency of any comments received on such draft plans prior
5 to the adoption of a final plan as required by paragraph nineteen
6 of subdivision a of section eight hundred fourteen;

7 (13) To establish a uniform format to be utilized by all city
8 agencies in the preparation of the quarterly reports required by
9 subdivision i of section eight hundred fourteen. Such format shall
10 provide for the presentation of statistical information regarding
11 total employment, new hiring and promotions in a manner which
12 facilitates understanding of an agency's efforts to provide fair
13 and effective equal opportunity employment for minority group
14 members, women and members of other groups who are employed by, or
15 who seek employment with, city agencies;

16 (14) To develop, in conjunction with other city agencies, a
17 clearinghouse for information on employment and educational
18 programs and services for minority group members and women; and

19 (15) To provide assistance to minority group members and
20 women employed by, or interested in being employed by, city
21 agencies to ensure that such minority group members and women
22 benefit, to the maximum extent possible, from city employment and
23 educational assistance programs.

24 b. The personnel director shall have the following powers and
25 duties with respect to the personnel management functions assigned
26 to city agencies pursuant to subdivisions a, b, c, and d of section
27 eight hundred fourteen.

28 (1) To aid in the development of effective and efficient
29 personnel programs and professional personnel staffs in the
30 agencies of the city; and to convene the personnel officers of the
31 agencies from time to time as a personnel council to consider
32 personnel matters of inter-agency or of city-wide concern;

33 (2) To approve agency plans and programs pursuant to
34 paragraphs seven, nine and thirteen of subdivision a of section

1 eight hundred fourteen;

2 (3) To establish and enforce standards, guidelines and
3 criteria for the personnel management functions assigned to the
4 agencies and to audit performance by the agencies of such personnel
5 functions;

6 (4) To reverse or rescind any agency personnel action or
7 decision pursuant to an assignment or delegation of authority in
8 this chapter, upon a finding of abuse after notification to the
9 agency and an opportunity to be heard;

10 (5) To hear and determine appeals by any person aggrieved by
11 any action or determination of the head of an agency made pursuant
12 to paragraphs three, five, seven and eleven of subdivision a of
13 section eight hundred fourteen, subject to review by the civil
14 service commission as provided in subdivision c of section eight
15 hundred twelve;

16 (6) To delegate to the head of an agency personnel management
17 functions assigned to the personnel director where such delegation
18 is not otherwise prohibited by the civil service law, and pursuant
19 to terms and conditions prescribed by the director;

20 (7) To administer personnel programs of a city-wide nature or
21 common to two or more departments where administration by separate
22 agencies would be impracticable and uneconomical[.];

23 (8) To annually publish and submit to the mayor, council and
24 the commission on equal employment practices a report on the
25 activities of the department of personnel and city agencies to
26 provide fair and effective affirmative employment practices to
27 ensure equal employment opportunity for minority group members and
28 women who are employed by, or who seek employment with, city
29 agencies. Such report shall include, but not be limited to, an
30 analysis of the city government workforce and applicants for such
31 employment by agency, title and classification; a description of
32 each agency's employment practices, policies and programs; an
33 analysis of the effectiveness of the city's efforts to provide fair
34 and effective affirmative employment practices to ensure equal

1 employment opportunity for minority group members and women who are
2 employed by, or who seek employment with, city agencies; and such
3 legislative, programmatic and budgetary recommendations for the
4 development, implementation or improvement of such activities as
5 the personnel director deems appropriate.

6 c. The personnel director shall promulgate rules and regulations
7 relating to the personnel policies, programs and activities of city
8 government in furtherance of and consistent with the state civil
9 service law and this chapter. The personnel director shall
10 transmit to the state civil service commission each proposed rule
11 which must be submitted to such commission, including any which
12 establishes or reclassifies titles in the non-competitive or exempt
13 class, within sixty days after the public hearing has been held on
14 such rule.

15 d. The personnel director shall, at the time requested by the
16 city civil service commission or the equal employment practices
17 commission, provide each commission with all the information which
18 such commission deems necessary to fulfill the duties assigned to
19 it by the charter. The provisions of this subdivision shall not
20 apply to any information which is required by law to be kept
21 confidential or which is protected by the privileges for attorney-
22 client communications, attorney work products, or material prepared
23 for litigation.

24 e. The personnel director shall submit a quarterly report to the
25 mayor, the council, the civil service commission and the equal
26 employment practices commission. Such report shall specify, by
27 agency and by title, including temporary titles: (1) the number of
28 provisional employees at the end of the second month of the
29 quarter; (2) the length of time such provisional employees have
30 served in their positions; and (3) the actions taken by the city
31 to reduce the number of such provisional employees and the length
32 of their service in such positions. Such reports shall be
33 submitted by the last day of March, June, September, and December
34 of each year.

1 Sec. 814. Agency heads; powers and duties. a. Subject to
2 the civil service law and applicable provisions of this charter,
3 heads of city agencies shall have the following powers and duties
4 essential for the management of their agencies in addition to
5 powers and duties vested in them pursuant to this charter or other
6 applicable law:

7 (1) To recruit personnel;

8 (2) To participate with the personnel department in job
9 analyses for the classification of positions;

10 (3) To allocate individual positions to existing civil
11 service titles;

12 (4) To allocate individual managerial or executive positions
13 to managerial assignment levels;

14 (5) To assist the personnel department in the determination
15 of minimum qualifications for classes of positions and to review
16 and evaluate qualifications of candidates for positions in the
17 civil service;

18 (6) To assist the personnel director in the planning and
19 preparation of open competitive examinations;

20 (7) To schedule and conduct tests other than written tests
21 for promotion to competitive class positions;

22 (8) To determine whether to hold an open competitive or
23 promotion examination to fill positions in the civil service
24 subject to disapproval of the personnel director within thirty
25 days;

26 (9) To plan and administer employee incentive and
27 recognition programs;

28 (10) To fill vacant positions within quarterly spending
29 allotments and personnel controls pursuant to section one hundred
30 twenty-three;

31 (11) To administer and certify eligible lists for classes of
32 positions unique to the agency;

33 (12) To make appointments to competitive positions from
34 eligible lists pursuant to subsection one of section sixty-one of

1 the state civil service law, which authority shall not be
2 abridged or modified by local law or in any other manner;

3 (13) To establish and administer performance evaluation
4 programs to be used during the probationary period and for
5 promotions, assignments, incentives and training;

6 (14) To conduct training and development programs to improve
7 the skills, performance and career opportunities of employees;

8 (15) To ensure and promote equal opportunity for all persons
9 in appointment, payment of wages, development and advancement;

10 (16) To administer employee safety programs;

11 (17) To maintain personnel records; [and]

12 (18) To perform such other personnel management functions as
13 are delegated by the personnel director pursuant to this chapter
14 or that are not otherwise assigned by this chapter[.];

15 (19) To establish measures and programs to ensure a fair and
16 effective affirmative employment plan to provide equal employment
17 opportunity for minority group members and women who are employed
18 by, or who seek employment with, the agency and, in accordance
19 with the uniform procedures and standards established by the
20 department of personnel for this purpose, to adopt and implement
21 an annual plan to accomplish this objective. Copies of such plans
22 shall be filed with the mayor, council, department of personnel,
23 equal employment practices commission, and city civil service
24 commission and shall be made available for reasonable public
25 inspection; and

26 (20) To provide assistance to minority group members and women
27 interested in being employed by city agencies to ensure that such
28 minority group members and women benefit, to the maximum extent
29 possible, from city employment and educational assistance programs.

30 b. Within one year from the effective date of this
31 chapter, the head of each agency shall prepare and submit to the
32 mayor and the personnel director a plan and schedule for the
33 discharge of the powers and duties assigned in this section. No
34 such plan shall take effect until approved by the mayor.

1 c. The mayor may modify, suspend, or withdraw for cause any
2 power or duty assigned or delegated to the head of an agency
3 pursuant to paragraphs three, four, seven, eight, and eleven of
4 subdivision a of this section.

5 d. Notification prior to each action or decision of an
6 agency pursuant to this chapter which changes the status of an
7 individual employee, a position, or a class of positions shall be
8 provided to the personnel director. The head of each agency shall
9 certify on each payroll that all personnel actions and
10 transactions of the agency conform with the provisions of the
11 civil service law and this chapter, the rules of the personnel
12 director and other applicable law.

13 e. Before any new position in the city service shall be
14 created, the agency head shall furnish the commissioner of finance
15 with a certificate stating the title of the class of positions to
16 which the position is to be allocated. If the position is to be
17 allocated to a new class of positions, the agency head shall
18 request of the personnel director, and the personnel director shall
19 furnish to the agency head and the commissioner of finance, a
20 certificate stating the appropriate civil service title for the
21 proposed position, the range of salary of comparable civil service
22 positions and a statement of the class specifications and line of
23 promotion into which such new position will be placed and any such
24 new position shall be created only with the title approved by the
25 personnel director.

26 f. The heads of all agencies shall, except as otherwise
27 provided by law, have power to appoint and remove, subject to the
28 provisions of the civil service law, all chiefs of bureaus and all
29 other officers, employees and subordinates in their respective
30 administrations, departments or offices, without reference to the
31 tenure of office of any appointee and to assign them their duties.
32 Nothing herein shall be construed to preclude the mayor from
33 entering into a collective bargaining agreement which provides for
34 a procedure governing the discipline of employees, including their

1 removal, pursuant to section 12-312 of the administrative code of
2 the city of New York for employees of agencies the heads of which
3 are appointed by the mayor.

4 g. The heads of city agencies or their designated
5 representatives shall fulfill the requirements for agency
6 participation in matters affecting the management of the agency in
7 advance of collective bargaining negotiations affecting employees
8 of any agency contained in section eleven hundred seventy-seven.

9 h. The head of each city agency shall ensure that such agency
10 does not discriminate against employees or applicants for
11 employment pursuant to federal, state and local law.

12 i. The head of each city agency shall quarterly publish and
13 submit to the mayor, council, department of personnel, and the
14 equal employment practices commission a report on the agency's
15 efforts during the previous quarter to implement the plan adopted
16 pursuant to paragraph nineteen of subdivision a of section eight
17 hundred fourteen.

18 j. The head of each city agency shall include in all employment
19 retention, recruitment, training and promotional program
20 literature, advertisements, solicitations and job applications,
21 such language as may be necessary to effectuate the purpose of this
22 chapter.

23 k. The head of each city agency shall require each employment
24 agency, or authorized representative of workers with which it has
25 a collective bargaining or other agreement or understanding and
26 which is involved in the performance of recruitment and retention
27 with the agency to furnish a written statement that such employment
28 agency, labor union or representative shall not discriminate
29 against employees or applicants for employment pursuant to federal,
30 state or local law and that such union or representative will
31 cooperate in the implementation of the agency's obligations
32 pursuant to this chapter.

33 Sec. 815. Management service. a. The personnel director,
34 in consultation with the heads of agencies, shall develop and

1 submit to the mayor a city-wide plan and schedule for the
2 development of qualified and competent technical, professional,
3 management, administrative, and supervisory personnel in the
4 civil service to meet the managerial needs of city government.
5 The mayor shall approve, disapprove or modify the plan within one
6 year after the effective date of this chapter.

7 b. The city-wide plan shall establish a management service
8 for city agencies and shall provide for:

9 (1) Membership in the service of employees with significant
10 policy, administrative, supervisory, managerial or professional
11 duties that require the exercise of independent judgment in the
12 scheduling and assignment of work, program management or
13 planning, evaluation of performance or allocation of resources;
14 and including the ranking officials assigned to the local service
15 districts of agencies within community districts and boroughs;

16 (2) Opportunities for entry into the service by qualified
17 civil servants and qualified persons not employed by the city
18 consistent with requirements of the civil service law;

19 (3) A city-wide qualifying test for entry into the service;

20 (4) Assessments of capacity and potential to perform
21 managerial duties as part of competitive tests for entry into the
22 service and assignments within the service;

23 (5) A single managerial class of positions for each
24 occupational series within the service with assignment levels
25 within each such class;

26 (6) A plan for achieving equitable pay scales for members of
27 the service consonant with their duties and responsibilities;

28 (7) Merit increases, incentive awards, and recognition
29 programs for members of the service;

30 (8) Performance evaluations for members of the service to be
31 used for assignments, incentive awards, probationary period
32 review, and disciplinary action;

33 (9) A probationary period not to exceed one year for members
34 of the service;

1 (10) Management intern programs, and,

2 (11) Training and career development programs.

3 c. The personnel director shall conduct city-wide programs
4 and functions related to the management service; assist agencies
5 in the implementation of the management service plan; and review
6 and evaluate agency performance under the plan.

7 Sec. 816. a. Appointments and promotions. All appointments,
8 promotions and changes in status of persons in the public service
9 of the city shall be made in the manner prescribed by the
10 constitution of the state and in accordance with the provisions of
11 the civil service law and other provisions of law not inconsistent
12 therewith nor with this charter.

13 b. Whenever qualifications for the appointment of persons to
14 public office are prescribed by law, the appointing officer shall,
15 upon making such appointment, file with the civil service
16 commission a certificate that such appointment complies with such
17 law.

18 Sec. 817. Power of investigation. The personnel director
19 shall have the power to make investigations concerning all
20 matters touching the enforcement and effect of the provisions of
21 the civil service law insofar as it applies to the city and the
22 rules and regulations prescribed thereunder, or concerning the
23 actions of any examiner or subordinate of the department, or of
24 any officer or employee of the city or of any county within the
25 city, in respect to the execution of the civil service law; and
26 in the course of such investigations the personnel director shall
27 have the power to administer oaths, to compel the attendance of
28 witnesses, and to examine such persons as deemed necessary.

29 Sec. 818. No compensation to unauthorized employee. No officer
30 of the city whose duty is to sign or countersign
31 warrants shall draw, sign or issue, or authorize the drawing,
32 signing or issuing of any warrant on the commissioner of finance
33 or other disbursing officer of the city for payment of salary to
34 any person in its service whose appointment or retention has not

1 been in accordance with the civil service law and the valid rules
2 in force thereunder.

3 Sec. 819. Examination for licenses. The personnel director
4 shall, unless otherwise provided by law, have power, upon request
5 of any person charged with the duty of issuing licenses or permits,
6 to conduct, under rules and regulations to be established by the
7 personnel director, examinations and tests to determine the
8 qualifications of persons applying for such licenses or permits.
9 The personnel director shall certify to the person having power to
10 issue the license or permit the result of any such examination or
11 test.

12 Sec. 820. Officers or employees designated to serve in exempt
13 civil service positions. a. Notwithstanding any provision in this
14 charter to the contrary, the mayor or head of an agency may
15 designate any officer or employee occupying a position in the
16 competitive class of the civil service to serve in a position in
17 the exempt class, and in such case, the officer or employee so
18 designated shall thereupon enter upon and exercise all the powers
19 and duties and receive the salary of such exempt position, and
20 shall retain all the rights, privileges and status of such officer
21 or employee's position in the competitive class.

22 b. The appointment of any person chosen to fill the position
23 thus left vacant shall be temporary and shall terminate upon the
24 return of such officer or employee to such position as provided
25 in subdivision e of this section.

26 c. Such designation shall be in writing and shall be filed
27 and remain of record in the office of such agency, in the office
28 of the personnel director and in the office of the mayor and
29 shall remain in force until revoked by the mayor or head of such
30 agency, as the case may be.

31 d. Service in such position in the exempt class shall be
32 credited as service in the competitive class and the status of
33 such officer or employee in respect to pensions or otherwise
34 shall not be adversely affected by such designation.

1 e. Upon the termination of the officer or employee's services
2 in such exempt position, except by dismissal for cause in the
3 manner provided in section seventy-five of the civil service law,
4 such officer or employee shall immediately and without further
5 application return to the position in the competitive class with
6 the status, rights, privileges and salary enjoyed immediately prior
7 to the designation to the position in the exempt class.

Chapter 36

EQUAL EMPLOYMENT PRACTICES COMMISSION

Sec. 830. a. There shall be an equal employment practices commission which shall review, evaluate and monitor the employment procedures practices and programs of any city agency and the department of personnel to maintain an effective affirmative employment program of equal employment opportunity for minority group members and women who are employed by or who seek employment with city agencies.

b. The commission shall consist of five members who, shall be compensated on a per diem basis. The mayor and the council shall each appoint two members. In addition, the mayor and the speaker of the council shall appoint a fifth member to serve as the chair of the commission for a term of four years.

c. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission and three members thereof shall constitute a quorum.

d. Members shall be appointed for four year terms except that of the members first appointed, one of those appointed by the mayor and one of those appointed by the council shall serve for terms expiring on the thirtieth day of June of nineteen hundred and ninety-two, one of those appointed by the mayor and one of those appointed by the council shall serve for terms expiring on the thirtieth day of June of nineteen hundred and ninety-five; and the chair shall serve for a term expiring on the thirtieth day of June nineteen hundred and ninety-four.

e. The commission may, within the appropriations available therefor, appoint an executive director and such deputies, assistants, and other employees as may be needed for the performance of the duties prescribed herein.

f. The commission may meet as necessary to implement the provisions of this chapter provided that the commission shall meet at least once every eight weeks.

1 Sec. 831. Duties and powers of the New York City Equal Employment
2 Practices Commission.

3 a. The commission: (i) shall monitor the employment policies
4 programs and practices of each city, county, borough or other
5 office, administration, board, department, division, commission,
6 bureau, corporation, authority, or other agency of government,
7 where the majority of the board members of such agency are
8 appointed by the mayor or serve by virtue of being city officers
9 or the expenses of which are paid in whole or in part from the city
10 treasury, including the board of education, city and community
11 colleges, the financial services corporation, the health and
12 hospital corporation, the public development corporation, and the
13 city housing authority; and (ii) monitor the coordination and
14 implementation of any city affirmative employment program of equal
15 employment opportunity for minority group members and women who are
16 employed by or who seek employment with city agencies, including
17 the activities of the department of personnel, and the civil
18 service commission, pursuant to chapter thirty five, and any other
19 agency designated by the mayor to assist in the implementation or
20 coordination of such efforts, and all city agencies required by
21 section eight hundred and fourteen to establish agency programs.

22 b. The commission may request and shall receive from any city
23 agency such information, other than information which is required
24 by law to be kept confidential or which is privileged as attorney-
25 client communications, attorney work products or material prepared
26 for litigation, and such assistance as may be necessary to carry
27 out the provisions of this chapter.

28 c. The commission shall communicate to the commission on human
29 rights any information regarding suspected or alleged violations
30 of chapter one of title eight of the administrative code.

31 d. The commission shall have the following powers and duties:

32 1. to review the uniform standards, procedures, and programs
33 the of department of personnel pursuant to paragraph twelve and
34

1 fourteen of subdivision a of section eight hundred thirteen, and
2 to review the plans adopted by city agencies in accordance with
3 the provisions of paragraph nineteen of subdivision a of section
4 eight hundred fourteen, and to provide any such agency or the
5 department of personnel with such comments and suggestions as the
6 commission deems necessary and appropriate;

7 2. to recommend to the department of personnel, all city
8 agencies, or any one or more particular agencies, procedures
9 approaches, measures, standards and programs to be utilized by such
10 agencies in their efforts to ensure a fair and effective
11 affirmative employment program for equal employment opportunity for
12 minority group members and women who are employed by or seek
13 employment with city agencies;

14 3. to recommend to any city agency actions which such agency
15 should consider including in its next annual plan as required by
16 paragraph nineteen of subdivision a of section eight hundred and
17 fourteen;

18 4. to advise and, if requested, assist city agencies in their
19 efforts to increase employment of minority group members and women
20 who are employed by seek or employment with city agencies;

21 5. to audit and evaluate the employment practices and
22 procedures of each city agency and their efforts to ensure fair and
23 effective equal employment opportunity for minority group members
24 and women at least once every four years and whenever requested by
25 the civil service commission or the human rights commission or
26 whenever otherwise deemed necessary by this commission;

27 6. to make such policy, legislative and budgetary
28 recommendations to the mayor, council, the department of personnel
29 or any city agency as the commission deems necessary to ensure
30 equal employment opportunity for minority group members and women;

31 7. to publish by the fifteenth of February of each year a
32 report to the mayor and the council on the activities of the
33 commission and the effectiveness of each city agency's affirmative
34 employment efforts and the efforts by the department of personnel

1 to ensure equal employment opportunity for minority group members
2 and women who are employed by or seek to be employed by city
3 agencies;

4 8. to establish appropriate advisory committees;

5 9. to serve with such other agencies or officials as shall be
6 designated by the mayor as the city liason to federal, state and
7 local agencies responsible for compliance with equal employment
8 opportunity for minority group members and women who are employed
9 by or who seek to be employed by city agencies.

10 10. shall take such other actions as are appropriate to
11 effectuate the provisions and purpose of this chapter.

12 Sec. 832. Compliance Procedures.

13 a. The Commission shall conduct such study or investigations and
14 hold such hearings as may be necessary to determine whether
15 agencies are in compliance with the equal employment opportunity
16 requirements of this chapter and chapter thirty-five.

17 b. For the purpose of ascertaining facts in connection with any
18 study or investigation authorized by this chapter, the commission
19 shall have power to compel the attendance of witnesses, to
20 administer oaths and to examine such persons as they may deem
21 necessary. The commission or any agent or employee thereof duly
22 designated in writing by them for such purposes may administer
23 oaths or affirmations, examine witnesses in public or private
24 hearing, receive evidence and preside at or conduct any such study
25 or investigation.

26 c. If the commission makes a preliminary determination pursuant to
27 subdivision c of section eight hundred and thirty one, that any
28 plan, program, procedure, approach, measures or standard adopted
29 or utilized by any city agency or the department of personnel does
30 not provide equal employment opportunity; and/or if the commission
31 makes a preliminary determination pursuant to this chapter and
32 chapter thirty-five, that an agency has not provided equal
33 employment opportunity the commission shall notify the agency in
34 writing of this determination and provide an opportunity for the

1 agency to respond. If the commission, after consideration of any
2 such response and after consulting with the agency, concludes that
3 the corrective actions, if any, taken or planned by the agency are
4 not sufficient to correct the non-compliance identified in the
5 preliminary determination, it should make a final determination, in
6 writing, including such recommended corrective action as the
7 commission may deem appropriate. The agency shall within thirty
8 days thereafter respond to the commission on any corrective action
9 it intends to make and shall make monthly reports to such
10 commission on the progress of such corrective action. If the
11 commission, after a period of not to exceed six months, determines
12 that the agency has not taken appropriate and effective corrective
13 action, the commission shall notify the agency in writing of this
14 determination and the commission may thereafter publish a report
15 and recommend to the mayor whatever appropriate corrective action
16 the commission deems necessary to ensure compliance with equal
17 employment opportunity pursuant to the requirements of this chapter
18 and chapter thirty-five. Within thirty days of such determination
19 the agency shall submit a written response to the commission and
20 the mayor. The mayor after reviewing the commission's findings and
21 the agency's response, if any, shall order and publish such action
22 as he or she deems appropriate.

1 CHAPTER 38

2 FINANCIAL INFORMATION SERVICES AGENCY

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5 Sec. 859. Financial information services agency. There shall
6 be a financial information services agency which shall be headed
7 by three directors appointed by the mayor, one of whom shall be
8 appointed upon the recommendation of the comptroller, and one of
9 whom shall be appointed upon the recommendation of the other two.
10 The directors may be city employees. They shall receive no
11 compensation for their services to the agency (except that a city
12 employee may continue to receive regular compensation) but shall
13 be compensated for expenses actually and necessarily incurred in
14 the performance of their duties.

15 Sec. 860. Powers and duties. a. The agency shall have the
16 power and duty to:

17 (1) implement and manage the integrated financial management
18 system;

19 (2) control and exercise responsibility for all data
20 processing functions and operations of the city which support the
21 activities of those officers, employees, and agencies of the city
22 responsible for organizing, compiling, coordinating and reporting
23 upon the city's central financial records, data and other related
24 information;

25 (3) provide efficient, coordinated and rapid access to such
26 information for the use of those officers, employees, and agencies
27 of the city responsible for the determination and administration
28 of the estimated and actual expenditures of the city; the receipt,
29 investment and disbursement of city funds; the issuance and payment
30 of principal and interest on obligations of the city; and for the
31 use of such other officers, employees, or agencies as may require
32 such information;

33 (4) render services to, and receive information and assistance
34 from, such other bodies defined as "covered organizations" in the

1 New York State Financial Emergency Act for the City of New York,
2 as amended, upon such terms and conditions as may be agreed to by
3 the agency and each such body.

4 b. All agencies shall furnish such information or equipment
5 in their possession as shall be necessary and proper to carry out
6 the functions of the financial information services agency as
7 determined by its executive director with the approval of its
8 directors.

9 Sec. 861. Staff. The directors shall recommend and the mayor
10 shall appoint an executive director of financial information
11 services. Within the appropriations therefor, the agency shall
12 employ such other officers and employees as may be required to
13 perform its duties.

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Sec. 862. Office of payroll administration. There shall be an office of payroll administration which shall be headed by two directors appointed by the mayor, one of whom shall be appointed upon the recommendation of the comptroller. The directors may be city employees. They shall receive no compensation for their services to the office (except that a city employee may continue to receive regular compensation) but shall be compensated for expenses actually and necessarily incurred in the performance of their duties.

Sec. 864. Staff. Upon the recommendation of the directors, the mayor shall appoint an executive director of payroll administration. Within the appropriations therefor, the office shall employ such other officers and employees as may be required to perform its duties.

CHAPTER 46

ELECTIONS AND VOTER ASSISTANCE

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] speaker 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] speaker. The members shall first be appointed to serve as follows:

(a) one member appointed by the [vice-chairman] speaker 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] speaker 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] speaker, 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] speaker, 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

1 contributions to any candidate for nomination for election, or
2 election, to the office of mayor, president of the city council,
3 comptroller, borough president, or member of the council which in
4 the aggregate are in excess of the maximum contribution
5 applicable to such office pursuant to any local law establishing
6 a voluntary system of campaign finance reform. No member shall
7 serve as an officer of a political party, or be a candidate, or
8 participate in any capacity in a campaign by a candidate, for
9 nomination for election or election to the office of mayor,
10 president of the city council, comptroller, borough president or
11 member of the city council. Officers and employees of the city
12 or any city agency, lobbyists required to file a statement of
13 registration under section 3-213 of the administrative code and
14 the employees of such lobbyists shall not be eligible to be
15 members of the board.

16 2. The members of the board shall be compensated at the
17 rate of one hundred dollars per calendar day when performing the
18 work of the board.

19 3. The board may employ necessary staff, including an
20 executive director and a counsel, and make necessary expenditures
21 subject to appropriation.

22 4. No member of the campaign finance board shall be removed
23 from office except for cause and upon notice and hearing.

24 5. The board shall have the power to investigate all
25 matters relating to the performance of its functions and any
26 other matter relating to the proper administration of any
27 voluntary system of campaign finance reform established by local
28 law and for such purposes shall have the power to require the
29 attendance and examine and take the testimony under oath of such
30 persons as it shall deem necessary and to require the production
31 of books, accounts, papers and other evidence relative to such
32 investigation.

33 6. The board shall publicize, as it deems appropriate, the
34 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.

1 10. The board may take such other actions as are necessary
2 and proper to carry out the purposes of any local law
3 establishing a voluntary system of campaign finance reform. If at
4 any time, the board determines that the amount of money in any
5 special fund or funds established by any such local law,
6 establishing a voluntary system of campaign finance reform, to
7 fund a system of optional public campaign financing for
8 candidates abiding by the requirements of such law, is
9 insufficient, or is likely to be insufficient, for payment to
10 such participating candidates pursuant to such law for [the]
11 elections to be held in perpetuity, [nineteen hundred eighty-
12 nine,] it shall report this determination to the commissioner of
13 finance, along with its estimate of the additional amount which
14 will be necessary to provide such participating candidates with
15 financing pursuant to such law and a detailed statement of the
16 assumptions and methodologies on which such estimate is based.
17 Not more than four days after receiving such estimate and
18 supporting materials, the commissioner of finance shall transfer
19 an amount equal to such estimate from the general fund to such
20 special fund or funds. All monies transferred to such special
21 fund or funds shall not be considered revenues of the city and
22 payments from such fund or funds shall be made without
23 appropriation and shall not be included in the expense budget of
24 the city. The comptroller shall have custody of such fund or
25 funds on behalf of the board and shall have the power to invest
26 the monies of such fund or funds in the manner in which the city
27 is authorized to invest its funds and shall deposit the monies of
28 the fund or funds in such deposit banks as have been designated
29 by the banking commission pursuant to section fifteen hundred
30 twenty-four of this charter. The comptroller shall submit
31 monthly reports to the board regarding the status of the fund or
32 funds and more frequent reports when the board requires. Monies
33 of the

1 fund or funds shall be paid out by the comptroller only on
2 warrant of the board.

3 b. The board shall take such actions as it deems necessary
4 and appropriate to improve public awareness of the candidates,
5 proposals or referenda in all elections in which there are
6 contested elections for the offices of mayor, president of the
7 council, borough presidents, comptroller, or city council or
8 ballot proposals or referenda pursuant to this charter or the
9 municipal home rule law, including but not necessarily limited to
10 the publication of a non-partisan, impartial voters guide
11 providing information on candidates, ballot proposals and
12 referenda, and the distribution of one copy of such guide to each
13 household in which there is at least one registered voter
14 eligible to vote in the election involved.

15 Sec. 1053. Voters guide. Each voters guide published by the
16 board shall contain: (a) material explaining the date and hours
17 during which the polls will be open for that election; when,
18 where, and how to register to vote; when a citizen is required to
19 reregister; when, where, and how absentee ballots are obtained
20 and used; instructions on how to vote; maps showing the
21 boundaries of council districts; and any other general
22 information on voting deemed by the board to be necessary or
23 useful to the electorate or otherwise consistent with the goals
24 of this chapter; (b) such tables of contents, graphics, and other
25 materials which the board determines will make the voters guide
26 easier to understand or more useful for the average voter; (c)
27 biographical information on each candidate, including but not
28 limited to name, party affiliation, present and previous public
29 offices held, present occupation and employer, prior employment
30 and other public service experience, educational background, and
31 a listing of major organizational affiliations and endorsements;
32 (d) concise statements by each candidate of his or her
33 principles, platform or views; and (e) where there is a ballot
34 proposal or referendum, concise statements explaining such

1 proposal or referendum and an abstract of each such proposal or
2 referendum. The guide shall be prepared in plain language using
3 words with common and everyday meanings. No later than the first
4 day of January of nineteen hundred eighty nine, the board shall
5 promulgate such rules as it deems necessary for the preparation
6 and publication of the guide in English, Spanish and any other
7 languages the board determines to be necessary and appropriate,
8 and for the distribution of the guide. The purpose of such rules
9 shall be to ensure that the guide and its distribution will serve
10 to fully, fairly and impartially inform the public about the
11 issues and candidates appearing on the ballot.

12 Sec. 1054. Voter assistance commission. a. There shall be[,
13 in the department,] a voter assistance commission, the head of
14 which shall be elected by the members of the commission from
15 among their membership [the chair of the campaign finance board,
16 and] which shall consist of sixteen members and which shall
17 advise all appropriate officials on matters relating to voter
18 registration and voter participation in New York city. The
19 commission shall include the first deputy mayor, or if there is
20 no first deputy mayor, such other deputy mayor as the mayor shall
21 designate to serve on this commission, the director of the office
22 of management and budget, the president of the board of
23 education, the president of the council, the executive director
24 of the board of elections, the corporation counsel and the chair
25 of the campaign finance board. In addition there shall be nine
26 members broadly representative of (1) groups that are
27 underrepresented among those who vote and or among those who are
28 registered to vote, (2) community, voter registration, civil
29 rights, and disabled groups, and (3) the business community.
30 Each of these members shall serve for a three year term, with
31 three to be appointed by the mayor and the remaining six to be
32 appointed by the council. Of the three members initially
33 appointed by the mayor, one shall serve for a term which expires
34 on June thirtieth, nineteen hundred ninety, one shall serve for a

1 term which expires on June thirtieth nineteen hundred ninety-one,
2 and one shall serve for a term which expires on June thirtieth
3 nineteen hundred ninety-two. Of the six members initially
4 appointed by the council, two shall serve for terms expiring on
5 June thirtieth hundred nineteen ninety, two shall serve for terms
6 expiring June thirtieth nineteen hundred ninety-one, and two
7 shall serve for terms expiring on June thirtieth nineteen hundred
8 ninety two. The members of the commission shall serve without
9 compensation.

10 b. The commission, with the advice and assistance of the
11 coordinator, shall:

12 1. monitor the performance of the voter assistance program
13 established by this chapter;

14 2. make such recommendations as it deems appropriate to the
15 mayor, the council, [the board of estimate,] the borough
16 presidents, and the board of elections for steps that could and
17 should be taken by such officials or bodies or by city agencies
18 to encourage and facilitate voter registration and voting by all
19 residents of New York City who are eligible to vote;

20 3. undertake, by itself or in cooperation with other public or
21 private entities, activities intended to encourage and facilitate
22 voter registration and voting by all residents of New York City
23 who are eligible to vote;

24 4. receive and review the annual report of the coordinator of
25 voter assistance, and, together with such comments as the
26 commission deems necessary and appropriate, forward copies of
27 such report to [the campaign finance board for transmission to]
28 the mayor, the council, [the board of estimate] the borough
29 presidents, and all other public officials with responsibilities
30 for policies, programs and appropriations related to voter
31 registration and voting in New York City and to private entities
32 that are currently or potentially involved in activities intended
33 to increase voter registration and voting; and

1 5. hold public hearings, at least once annually, between the
2 day following the general election and December twenty-first,
3 regarding voter registration and participation in New York City;

4 Sec. 1055. Coordinator of voter assistance. The commission
5 shall appoint, upon nomination of the mayor, a coordinator of
6 voter assistance. The coordinator shall:

7 1. encourage and facilitate voter registration and voting by
8 all residents of New York City who are eligible to vote and
9 recommend methods to increase the rate of registration and voting
10 by such residents;

11 2. identify groups or categories of such residents who are
12 underrepresented among those registered and those voting and
13 recommend methods to increase the rate of voter registration and
14 voting among such groups and categories;

15 3. adopt rules establishing the content and format for city
16 agencies to follow in preparing the annual voter assistance plans
17 required by section one thousand fifty-six of this charter;

18 4. consistent with all state and local laws, coordinate the
19 activities of all city agencies in general and specialized
20 efforts to increase registration and voting including, but not
21 limited to, the distribution of forms for citizens who use or
22 come in contact with the services of city agencies and
23 institutions; mailings by city agencies to reach citizens;
24 cooperative efforts with non-partisan voter registration groups,
25 community boards, agencies of city, state, and federal
26 governments, and entities doing business in the city; and
27 publicity and other outreach programs.

28 5. monitor voter registration and voting in New York City, and
29 receive citizen complaints regarding such processes;

30 6. submit annually, no later than July thirtieth in each year,
31 to the voter assistance commission a public report on the state
32 of voter registration and participation in the city. Such report
33 shall include, but not be limited to (a) a description of the
34 activities of the voter assistance program and the effectiveness

1 of those activities in achieving the goals of the program; (b)
2 the number of voter registration forms distributed by the
3 program, the manner in which those forms were distributed and the
4 estimated number of persons registered through the activities of
5 the program; (c) the number and characteristics of citizens
6 registered and unregistered to vote during the previous primary,
7 general and special elections and for the most recent time period
8 for which such information is available; (d) the number and
9 characteristics of citizens who voted during the previous
10 primary, general and special elections; (e) a review and analysis
11 of the voter registration and voting processes in New York City
12 during the previous year ; (f) recommendations for increasing
13 voter registration and participation; and (g) any other
14 information or analysis the commission [or the board] deems
15 necessary and appropriate; and

16 7. prepare and publish studies and reports on issues of
17 relevance to voter registration and participation in New York
18 City.

19 Sec. 1056. Heads of mayoral agencies shall cooperate with the
20 board of elections and the coordinator of voter assistance to
21 encourage voter registration and voting by all residents of the
22 city of New York eligible to vote, and shall prepare annually, in
23 accordance with rules and guidelines of the coordinator of voter
24 assistance, plans specifying the resources, opportunities, and
25 locations the agency can provide for voter assistance activities.

26 Sec. 1057. Non-partisanship in program operations. The board,
27 commission and coordinator shall conduct all their activities in
28 a strictly non-partisan manner.

CHAPTER 47

PUBLIC ACCESS TO MEETINGS AND INFORMATION

Sec. 1058. 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 office, 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. 1059. 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

1 agency, or by or for counsel for use in actions or proceedings to
2 which the city or any agency is a party, or for use in any
3 investigation authorized by this charter.

4 Sec. 1060. Public attendance at executive sessions. a. Except
5 as otherwise provided pursuant to subdivision b of this section,
6 the public may attend all sessions or meetings of the following
7 agencies whenever items on the calendar of such agency are to be
8 considered and acted upon in a preliminary or final manner: art
9 commission, conciliation and appeals board, environmental control
10 board, board of health, landmarks preservation commission, city
11 planning commission, board of standards and appeals, tax
12 commission, youth board, and the council and its committees.

13 b. Any agency specified pursuant to subdivision a of this
14 section may convene an executive session closed to the public by
15 a three-fourths vote of all of its members, but shall not take
16 final action at any such meeting.

17 Sec.1061. Commission on public information and communication.

18 a. There shall be a commission on public information and
19 communication which shall consist of the president of the council,
20 as chair, the corporation counsel or the delegate of such officer,
21 the director of operations or the delegate of such officer, the
22 commissioner of the department of records and information services
23 or the delegate of such officer, the commissioner of
24 telecommunications or the delegate of such officer, the president
25 of the WNYC communications group or the delegate of such officer,
26 and one council member elected by the council, all of whom shall
27 serve on the board without compensation. In addition, there shall
28 be four other members, each appointed for a four year term, who
29 shall not hold or seek public or political party office or be
30 public employees in any jurisdiction, except the representative of
31 the community board as set forth herein, to be appointed as
32 follows: two by the mayor, one of whom is or has been a
33 representative of the news media and one of whom shall be a member
34 of a community board; one by the president of the council; and one

1 by the borough presidents acting as a group. Such members shall
2 receive a per diem compensation for each calendar day they perform
3 the work of the commission. No such members shall serve for more
4 than two consecutive four year terms. All initial appointments
5 shall be made by the first day of March, nineteen hundred ninety.

6 b. Members may be removed by the mayor for cause after notice
7 and opportunity to be heard. Members shall serve until their
8 successors have been appointed.

9 c. The commission shall appoint an executive director and
10 general counsel and such other officers, employees, and consultants
11 as are necessary to fulfill its duties, within appropriations
12 available therefor.

13 d. The commission shall:

14 (1) undertake, by itself, or in cooperation with other
15 entities, activities to educate the public about the availability
16 and potential usefulness of city produced or maintained information
17 and assist the public in obtaining access to such information;

18 (2) review (i) all city information policies, including but
19 not limited to, policy regarding public access to city produced or
20 maintained information, particularly, computerized information;
21 (ii) the quality, structure, and costs to the public of such
22 information; (iii) agency compliance with the various notice,
23 comment, and hearing provisions of the charter and other laws
24 applicable to city agencies; and (iv) the usefulness and
25 availability of city documents, reports, and publications;

26 (3) assist city agencies in facilitating public access to their
27 meetings, transcripts, records, and other information, and monitor
28 agency compliance with the provisions of the charter, and other
29 laws which require such public access;

30 (4) hold at least one public hearing each year on city
31 information policies and issue at least one report each year with
32 such recommendations as the commission deems advisable;

33 (5) on the request of any member of the public, elected
34 official, or city agency, render advisory opinions regarding the

1 application of those provisions of the charter or other laws which
2 require public access to meetings, transcripts, records and other
3 information. Such advisory opinions shall be indexed by subject
4 matter and maintained on a cumulative basis.

5 (6) make recommendations regarding: (i) the application of
6 new communications technology to improve public access to city
7 produced or maintained information; (ii) the distribution of
8 information to the public about the purposes and locations of the
9 city's service delivery facilities; and (iii) programming for the
10 municipal cable channels and broadcasting system.

11 Sec. 1062. Public data directory. a. The commission shall
12 publish annually a directory of the computerized information
13 produced or maintained by city agencies which is required by law
14 to be publicly accessible. Such directory shall include specific
15 descriptions of the contents, format and methods of accessing such
16 information, and the name, title, office address, and office
17 telephone number of the official in each agency responsible for
18 receiving inquiries about such information.

19 b. The mayor shall transmit to the commission such information
20 as the commission requires to compile and update the public data
21 directory. The mayor shall also ensure that all agencies provide
22 the commission with such assistance and information as the
23 commission requires.

24 Sec. 1063. Cablecasting and broadcasting the public
25 proceedings of city government. a. All future cable franchises and
26 franchise renewals shall require (i) that channels be designated
27 for governmental use and (ii) that the franchisee provide the
28 interconnections necessary to allow the cablecasting of the public
29 proceedings of the council and its committees and the city planning
30 commission.

31 b. The council and its committees and the city planning
32 commission shall make their public meetings and hearings available
33 for cablecasting and broadcasting. The council, on the
34 recommendation of the commission on public information and

1 communication, may by local law require that other agencies of city
2 government be subject to the requirements of this subdivision.

3 c. On or before the thirtieth day of June of nineteen hundred
4 ninety one, the commission on public information and communication
5 shall submit to the council a proposal for cablecasting the public
6 proceedings of the council and its committees and the city planning
7 commission. Such proposal shall include the commission's
8 recommendations regarding (i) the organization or organizations to
9 be responsible for obtaining such cablecasting and (ii) funding the
10 start-up and ongoing costs of such cablecasting.

11 Sec. 1064. Centralized contract and contractor information.

12 a. The mayor shall maintain, in a central place which is accessible
13 to the public, standard information regarding each city contract
14 and contractor. Such information shall include: (1) a copy of the
15 contract; (2) information regarding the method by which the
16 contract was let; (3) such standard documents as the contractor
17 is required to submit, which documents shall be updated regularly
18 in accordance with rules of the procurement policy board; (4)
19 information regarding the contractor's qualifications and
20 performance; (5) any evaluations of the contractor and any
21 contractor responses to such evaluations; (6) any audits of the
22 contract and any contractor responses to such audits; and (7) any
23 decisions regarding the suspension or debarment of the contractor.

24 b. The procurement policy board shall regularly review the
25 scope and form of all information maintained pursuant to this
26 section and shall promulgate rules regarding its contents,
27 organization and management.

28 c. The mayor shall ensure adequate public access to the
29 information on contracts and contractors, which shall be maintained
30 in a manner to facilitate public review, with due consideration for
31 the need to protect, where appropriate, the confidentiality of any
32 such information.

33 d. The information on contracts and contractors shall be
34 computerized to the extent feasible. The computerized information

1 shall be stored in a manner which allows for meaningful read only
2 access to such information by the agency name, contractor name,
3 contract category, and contract number included in prior notices
4 published in the City Record pursuant to section three hundred
5 fifty-one. At least one computer terminal shall be available for
6 such access in the central place established by the mayor pursuant
7 to subdivision a of this section.

8 Sec. 1065. Budget documents. Each budget document required by
9 chapters three, six, or nine of the charter shall be a public
10 document. The official or agency responsible for preparing each
11 such document shall file a copy in the municipal reference and
12 research center, in the principal branch library of each borough
13 and, for the various geographic based budget documents, in the
14 relevant branch library. Copies of each such required budget
15 document shall also be made available for reasonable public
16 inspection in the office of the official or agency responsible for
17 preparing it.

18 Sec. 1066. City Record. a. There shall be published daily,
19 except Saturdays, Sundays and legal holidays, under contract or by
20 the department of general services, a paper to be known as the City
21 Record.

22 b. There shall be inserted in the City Record nothing aside
23 from such official matters as are expressly authorized.

24 c. All advertising required to be done for the city, except
25 as otherwise provided by law, shall be inserted at the public
26 expense in the City Record and a publication therein shall be
27 sufficient compliance with any law requiring publication of such
28 matters or notices.

29 d. Nothing herein contained shall prevent the publication
30 elsewhere of any advertisement required by law to be so published.

31 e. The commissioner of general services shall cause a
32 continuous series of the City Record to be bound as completed
33 quarterly and to be deposited with his or her certificate thereon
34 in the office of the city register, in the county clerk's office

1 of each county and in the office of the city clerk; and copies of
2 the contents of any part of the same, certified by such register,
3 county clerk or city clerk, shall be received in judicial
4 proceedings as prima facie evidence of the truth of the contents
5 thereof.

6 f. The commissioner of general services shall provide copies
7 of each issue of the City Record to the municipal reference and
8 research center where they shall be available without charge to any
9 member of the public requesting a copy on the publication date or
10 within a reasonable period of time thereafter, to be determined by
11 the commissioner of records and information services. The
12 commissioner shall also provide free subscriptions to the City
13 Record to each borough president, council member, community board,
14 and branch of the public library and to the news media as defined
15 in paragraph three of subdivision b of section one thousand forty-
16 three of the charter. The commissioner of general services, each
17 borough president, council member and community board shall, upon
18 receipt, make copies of each issue of the City Record available in
19 their respective offices for reasonable public inspection without
20 charge.

21 Sec. 1067. Organization of the department; notice. In January,
22 nineteen hundred ninety and every year thereafter, in accordance
23 with the notice procedures of subdivision b of section one thousand
24 forty-three of this charter, the head of each agency shall cause
25 to be published in the City Record and shall give notice of a
26 written plan or chart describing the organization of the agency.

27 Sec. 1068. The text of a reorganization plan approved pursuant
28 to subdivision c of section eleven of the charter and the text of
29 each resolution or similar action provided for by this charter
30 which has the force of law or which amends or extends the charter
31 shall appear as part of the administrative code or of the
32 compilation of city rules required by section one thousand forty-
33 five of the charter, as the mayor deems appropriate.

CHAPTER 49

OFFICERS AND EMPLOYEES

Sec. 1100. Head of department; whole time. Every head of an administration or department or elected officer except council members who receives a salary from the city shall give whole time to the duties of the office and shall not engage in any other occupation, profession or employment.

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] the powers and exercise such of [his] the duties of the head of the department and for such times and under such conditions as [he] such head of a department 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] such official 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, to the

1 extent to which the organization of the administration[,] or
2 department is not prescribed by law, shall by instrument in writing
3 filed in the agency organize the administration or department into
4 such divisions, bureaus or offices and make such assignments of
5 powers and duties among them, and from time to time change such
6 organization or assignments, as the head of the administration or
7 department may consider advisable.

8 b. Except as provided in section eleven, where divisions,
9 bureaus or offices have been established by law, the mayor may
10 consolidate any two or more divisions, bureaus or offices in any
11 agency under [his] the jurisdiction of the mayor and change the
12 duties of any such division, bureau or office and in like manner
13 reverse or modify any such action.

14 Sec. 1109. Summary inquiry. A summary inquiry into any alleged
15 violation or neglect of duty in relation to the property,
16 government or affairs of the city may be conducted under an order
17 to be made by any justice of the supreme court in the first, second
18 or eleventh judicial district on application of the mayor, the
19 comptroller, the president of the council, any five council
20 members, the commissioner of investigation or any five citizens
21 who are taxpayers, supported by affidavit to the effect that one
22 or more officers, employees or other persons therein named have
23 knowledge or information concerning such alleged violation or
24 neglect of duty. Such inquiry shall be conducted before and shall
25 be controlled by the justice making the order or any other justice
26 of the supreme court in the same district. Such justice may
27 require any officer or employee or any other person to attend and
28 be examined in relation to the subject of the inquiry. Any answer
29 given by a witness in such inquiry shall not be used against [him]
30 such witness in any criminal proceeding, except that for all false
31 answers or material points [he] such witness shall be subject to
32 prosecution for perjury. The examination shall be reduced to
33 writing and shall be filed in the office of the clerk of such
34 county within the first, second or eleventh judicial district as

1 the justice may direct, and shall be a public record.

2 Sec. 1110. Trusteeship of public property. The council and
3 the council members and all other officers and employees of the
4 city are hereby declared respectively trustees of the property,
5 funds and effects of the city, so far as such property, funds and
6 effects are or may be committed to their management or control.
7 Such trustees are hereby made subject to all the duties and
8 responsibilities imposed by law on trustees, and such duties and
9 responsibilities may be enforced by the city or by any officer
10 thereof.

11 Sec. 1110-a. Capital plant inventory and maintenance
12 estimates.

13 a. For the purposes of this section:

14 1. "Maintenance" or "maintain" shall denote those
15 activities necessary to keep the relevant portion of the capital
16 plant in good repair so as to preserve its structural integrity
17 and to prevent its deterioration.

18 2. "Major portion of the capital plant" shall mean (a)
19 any capital asset (1) which is a capital facility or system
20 comprising a component of the public domain or infrastructure
21 general fixed assets of the city or a building comprising a
22 component of the general fixed assets of the city and (2) which,
23 as of December thirty-first, nineteen hundred eighty-eight, or, as
24 the result of any reconstruction or expansion after such date, has
25 a replacement cost of at least ten million dollars and a useful
26 life of at least ten years, or if purchased or constructed after
27 such date, has an original cost of at least ten million dollars,
28 and an original useful life of at least ten years; and

29 (b) any other capital asset of the city designated by the mayor
30 for the purposes of this section; provided, however, that it shall
31 not include any asset which is leased to or otherwise under the
32 cognizance and control of a public benefit corporation or which is
33 otherwise covered, pursuant to state law, by requirements which are
34 substantially similar to the requirements of this section.

1 b. Not later than October first of nineteen hundred eighty-
2 nine, the head of each agency shall submit to the mayor, for each
3 major portion of the capital plant for which the agency or any
4 officer or employee thereof is responsible, the following
5 information: the date of original acquisition or construction,
6 the dates of any significant alterations or reconstructions, the
7 original cost and original useful life, and the current replacement
8 cost and remaining useful life. Such information shall be
9 categorized by project type.

10 c. Not later than October first of nineteen hundred ninety,
11 the head of each agency shall submit to the mayor an agency capital
12 plant inventory presenting, for each major portion of the capital
13 plant for which the agency or any officer or employee thereof is
14 responsible, an update of the information required by subdivision
15 b of this section as well as an assessment of its condition and a
16 schedule, by year, of maintenance activities. The head of each
17 agency shall submit amendments of such agency capital plant
18 inventory to the mayor as necessary to ensure that such inventory,
19 including the condition assessments and maintenance schedules, is
20 complete, current and accurate. Such inventory and amendments
21 thereto shall be categorized by project type.

22 d. Such maintenance schedules and amendments thereto, other
23 than amendments reflecting the disposition or demolition of any
24 portion of the capital plant, shall be prepared or reviewed by
25 professional engineers or architects registered in the state of
26 New York and such engineers or architects shall set forth in
27 writing (1) their opinions as to the reasonableness and sufficiency
28 of the activities set forth in such schedules for maintaining such
29 portions of the capital plant and (2) their recommendations, if
30 any, for changes in such schedules. Such opinions and
31 recommendations shall be based upon commonly used standards for
32 acceptable levels of maintenance, the performance and other
33 specifications to which such portions of the capital plant were
34 designed, and such other engineering or architectural standards as

1 may be appropriate. Such professional engineers or architects may
2 be officers or employees of the city of New York.

3 e. The mayor shall transmit copies of such agency capital
4 plant inventories, and all amendments thereto, to the council, [the
5 board of estimate,] the comptroller and the city planning
6 commission and shall ensure that all information from such
7 inventories as amended, including the condition assessments and
8 maintenance schedules, and the opinions and recommendations related
9 to such maintenance schedules are centrally stored and accessible
10 to such officials, the agencies involved and other interested
11 parties.

12 f. Not later than the first day of October of each year,
13 commencing in nineteen hundred ninety, the mayor shall transmit to
14 [the board of estimate and] the council estimates for the ensuing
15 fiscal year and for each of the three succeeding fiscal years of
16 the amounts, by agency and project type and, within project type,
17 by personal services and other-than-personal services, necessary
18 to maintain all major portions of the capital plant, consistent
19 with the maintenance schedules on file with the mayor pursuant to
20 subdivision e of this section. Such estimates shall be prepared
21 or reviewed by the professional engineers or architects who
22 prepared or reviewed such maintenance schedules or by professional
23 engineers or architects registered in the State of New York and
24 employed by the office of management and budget or the agencies
25 involved. Such architects or engineers shall set forth in writing
26 (1) their opinions as to the reasonableness of such estimates and
27 whether such estimates have been logically derived from such
28 maintenance schedules and (2) their recommendations, if any, for
29 changes in such estimates. Such opinions and recommendations shall
30 be centrally stored and accessible to any interested party.

31 Sec. 1111. Authorization to incur liabilities; [Expenses]
32 expenses not to exceed appropriation. The head of each agency
33 shall establish the procedure by which charges and liabilities may
34 be incurred on behalf of the agency. Such procedures shall ensure
35 that no officer or employee, on behalf of or in the name of the
36 agency, shall incur a liability or an expense for any purpose in

1 excess of the amount appropriated or otherwise authorized therefor;
2 and no charge, claim or liability shall exist or arise against the
3 city, or any of the counties contained within its territorial
4 limits, for any sum in excess of the amount appropriated or
5 otherwise authorized for the particular purpose.

6 Sec. 1112. Reports to mayor. The heads of administrations
7 and departments established by this charter, borough presidents
8 and such officers as the mayor may require shall in addition to
9 any other reports required by this charter, once in each year and
10 at such other times as the mayor may direct, make to the mayor, in
11 such form and under such rules as the mayor may prescribe, reports
12 of their operations and action. Notice of the availability of
13 copies of each of such annual reports shall be published in the
14 City Record within thirty days of the publication of the report
15 involved. The heads of all agencies shall, when required by the
16 mayor, furnish to him or her such information as [he] the mayor may
17 demand, within such reasonable time as he or she may direct.

18 [Sec. 1113. Heads of departments to furnish copies of papers
19 on demand. The heads of all administrations and departments,
20 except the police and law departments, and the chiefs of each and
21 every division or bureau thereof and all borough presidents, shall
22 with reasonable promptness, furnish to any taxpayer desiring the
23 same, a true and certified copy of any book, account or paper kept
24 by such administration, department, bureau or office or such part
25 thereof as may be demanded, upon payment in advance of ten cents
26 for every hundred words thereof by the person demanding the same.
27 The provisions of this section shall not apply to any papers
28 prepared by or for the comptroller for use in any proceeding to
29 adjust or pay a claim against the city or any agency or by or for
30 counsel for use in actions or proceedings to which the city, or any
31 agency is a party or for use in any investigation authorized by
32 this charter.

33 Sec. 1114. Inspection by taxpayers of books and papers. All
34 books, accounts and papers in the office of any borough president

1 or any division or bureau thereof, or in any city administration
2 or department or any division or bureau thereof, except the police
3 and law departments, shall at all times be open to the inspection
4 of any taxpayer, subject to such reasonable rules and regulations
5 in regard to the time and manner of such inspection as the borough
6 president, administration, department, office, division or bureau
7 may make; in case such inspection shall be refused, such taxpayer,
8 on his sworn petition, describing the particular book, account or
9 paper that he desires to inspect, may, upon notice of not less than
10 one day, apply to any justice of the supreme court for an order
11 that he be allowed to make such inspection as such justice shall
12 by his order authorize. The provisions of this section shall not
13 apply to any papers prepared by or for the comptroller for use in
14 any proceedings to adjust or pay a claim against the city or any
15 agency or by or for counsel for use in actions or proceedings to
16 which the city or any agency is a party or for use in any
17 investigation authorized by this charter.]

18 Sec. 1115. Officer not to hold any other civil office. Any
19 person holding office, whether by election or appointment, who
20 shall, during [his] such person's term of office, accept, hold or
21 retain any other civil office of honor, trust or emolument under
22 the government of the United States, except commissioners for the
23 taking of bail, or of the state, except the office of notary public
24 or commissioner of deeds or officer of the national guard, or who
25 shall hold or accept any other office connected with the government
26 of the city, or who shall accept a seat in the legislature, shall
27 be deemed thereby to have vacated any office held by [him] such
28 person under the city government; except that the mayor may accept,
29 or may in writing authorize any other person holding office to
30 accept, a specified civil office in respect to which no salary or
31 other compensation is provided. No person shall hold two city or
32 county offices, except as expressly provided in this charter or by
33 statute; nor shall any officer under the city government hold or
34 retain an office under a county government, except when [he] such

1 officer holds such office ex officio by virtue of an act of the
2 legislature, and in such case shall draw no salary for such ex
3 officio; provided, however, that any member of the police force or
4 any member of the fire department may hold office as a member of
5 a board of education outside of the city of New York if otherwise
6 qualified to serve thereon.

7 Sec. 1116. Fraud; neglect of duty; willful violation of law
8 relative to office. a. Any council member or other officer or
9 employee of the city who shall wilfully violate or evade any
10 provision of law relating to such officer's office or employment,
11 or commit any fraud upon the city, or convert any of the public
12 property to such officer's own use, or knowingly permit any other
13 person so to convert it or by gross or culpable neglect of duty
14 allow the same to be lost to the city, shall be deemed guilty of
15 a misdemeanor and in addition to the penalties imposed by law and
16 on conviction shall forfeit such office or employment, and be
17 excluded forever after from receiving or holding any office or
18 employment under the city government.

19 b. Any officer or employee of the city or of any city agency
20 who shall knowingly make a false or deceptive report or statement
21 in the course of duty shall be guilty of a misdemeanor and, upon
22 conviction, forfeit such office or employment.

23 Sec. 1117. Pensioner not to hold office. If a person receiving
24 a pension or a retirement allowance made up of such pension and
25 an annuity purchased by the pensioner from the city or any agency,
26 or out of any fund under the city or any agency, by reason of [his]
27 such person's own prior employment by the city or any agency, shall
28 hold and receive any compensation from any office, employment or
29 position under the state or city or any of the counties included
30 within the city or any municipal corporation or political
31 subdivision of the state, except the offices of inspector of
32 election, poll clerk or ballot clerk under the election law or
33 commissioner of deeds or notary public or jury duty, the payment
34 of said pension only shall be suspended and forfeited during and

1 for the time [he] such person shall hold and receive compensation
2 from such office, position or employment; but this section shall
3 not apply where the pension and the salary or compensation of the
4 office, employment or position amount in the aggregate to less than
5 one thousand eight hundred dollars annually.

6 Sec. 1118. Officers and employees not be ordered to work
7 outside public employment. No officer or employee of the city or
8 of any of the counties within its limits shall detail or cause any
9 officer or employee of the city or of any of such counties to do
10 or perform any service or work outside of [his] the public office,
11 work or employment of such officer or employee; and any violation
12 of this section shall constitute a misdemeanor.

13 Sec. 1119. Action of boards. Except as otherwise provided by
14 law:

15 1. Whenever any act is authorized to be done or any
16 determination or decision made by any commission, board or other
17 body, the act, determination or decisions of the majority of the
18 commission, board or other body shall be held to be the act,
19 determination or decision of the commission, board or other body.

20 2. A majority of the members of any commission, board or other
21 body shall constitute a quorum of such commission, board or other
22 body.

23 3. Each commission, board or other body may choose at its own
24 pleasure one of its members who shall be its president and one who
25 shall be its treasurer and may appoint a secretary or chief clerk
26 within the appropriation therefore.

27 Sec. 1120. Additional powers and duties. Any elected or
28 appointed officer of the city or any board or commission or any
29 member thereof shall, in addition to the powers and duties vested
30 in [him] such officer, board or [it] commission by this charter,
31 perform any duties and exercise any powers vested in [him] such
32 officer or in such board or commission by any other provision of
33 law and any power necessary to carry out the powers and duties
34 vested in [him] such officer, board or [it] commission.

1 Sec. 1122. Bonds. Unless otherwise provided by law, each
2 officer of the city who has possession of or control over any funds
3 of the city shall give bond for the faithful performance of [his]
4 the duties of such officer in such sum as may be fixed and with
5 sureties to be approved by the comptroller. Such bonds shall run
6 to the city of New York, and in case there is another officer who
7 is responsible for the officer giving the bond, shall run also to
8 such officer.

9 Sec. 1123. Failure to testify. If any council member or
10 other officer or employee of the city shall, after lawful notice
11 or process, wilfully refuse or fail to appear before any court or
12 judge, any legislative committee, or any officer, board or body
13 authorized to conduct any hearing or inquiry, or having appeared
14 shall refuse to testify or to answer any question regarding the
15 property, government or affairs of the city or of any county
16 included within its territorial limits, or regarding the
17 nomination, election, appointment or official conduct of any
18 officer or employee of the city or of any such county, on the
19 ground that [his] the answer of such council member, officer or
20 employee would tend to incriminate him or her, or shall refuse to
21 waive immunity from prosecution on account of any such matter in
22 relation to which he or she may be asked to testify upon any such
23 hearing or inquiry, [his] the term or tenure of office or
24 employment of such council member, officer or employee shall
25 terminate and such office or employment shall be vacant, and he or
26 she shall not be eligible to election or appointment to any office
27 or employment under the city or any agency.

28 Sec. 1124. Civil rights protected. Nothing in this charter
29 contained shall affect any rights given or secured by section
30 fifteen of the civil rights law, including the right of officers
31 and employees, as citizens, to appeal to the legislature or to any
32 public officer, board, commission or other public body for the
33 redress of their grievances as such officers and employees.

1 Sec. 1125. Salaries of the district attorneys. Each of the
2 district attorneys of the counties of New York, Bronx, Kings,
3 Queens and Richmond shall receive an annual salary equal to the
4 compensation received by a justice of the supreme court in the
5 county in which such district attorney has been elected and is
6 serving, or ninety-seven thousand dollars a year, whichever is
7 greater.

8 Sec. 1126. Political activities forbidden. No member or
9 officer or employee of the department of personnel or the civil
10 service commission shall hold office or serve as a member of any
11 committee in any political organization or association, nor shall
12 such member, officer or employee serve as a delegate to any
13 political convention. Any member, officer or employee violating
14 this provision shall forfeit such office or employment.

15 Sec. 1127. Condition precedent to employment. a.
16 Notwithstanding the provisions of any local law, rule or regulation
17 to the contrary, every person seeking employment with the city of
18 New York or any of its agencies regardless of civil service
19 classification or status shall sign an agreement as a condition
20 precedent to such employment to the effect that if such person is
21 or becomes a nonresident individual as that term is defined in
22 section 11-1706 of the administrative code of the city of New York
23 or any similar provision of such code, during employment by the
24 city, such person will pay to the city an amount by which a city
25 personal income tax on residents computed and determined as if such
26 person were a resident individual, as defined in such section,
27 during such employment, exceeds the amount of any city earnings tax
28 and city personal income tax imposed on such person for the same
29 taxable period.

30 b. Whenever any provision of this charter, the administrative
31 code of the city of New York or any rule or regulation promulgated
32 pursuant to such charter or administrative code employs the term
33 "salary", "compensation", or any other word or words having a
34 similar meaning, such terms shall be deemed and construed to mean

1 the scheduled salary or compensation of any employee of the city
2 of New York, undiminished by any amount payable pursuant to
3 subdivision a of this section.

4 Sec. 1128. Interference with investigation. a. No person shall
5 prevent, seek to prevent, interfere with, obstruct, or otherwise
6 hinder any study or investigation being conducted pursuant to the
7 charter. Any violation of this section shall constitute cause for
8 suspension or removal from office or employment.

9 b. Full cooperation with the commissioner of investigation
10 shall be afforded by every officer or employee of the city or other
11 persons.

12 Sec. 1129. Members of police department; no other office. Any
13 police commissioner or any member of the police force who shall
14 accept any additional place of public trust or civil emolument
15 except as a member of a community board, or who shall during his
16 or her term of office be nominated for any office elective by the
17 people, except a member of the police force appointed, nominated
18 or elected to a board of education outside of the city of New York,
19 and shall not, within ten days succeeding same, decline the said
20 nomination, shall be deemed thereby to have resigned his or her
21 commission and to have vacated his or her office, and all votes
22 cast at any election for any person holding the office of police
23 commissioner, or within thirty days after he or she shall have
24 resigned such office, shall be void.

25 The foregoing provisions shall not apply to any member of the
26 police force who, with the written authorization of the mayor,
27 shall accept any additional place of public trust or civil
28 emolument while on leave of absence without pay from the
29 department.

30 Sec. 1130. Members of fire department; no other office. Any
31 commissioner or any member of the uniformed force of the fire
32 department who shall accept any additional place of public trust
33 or civil emolument except as a member of a community board, or who
34 shall during his or her term of office be nominated for any office

1 elective by the people, except a member of the force appointed,
2 nominated or elected to a board of education outside of the city
3 of New York, to a party position as defined within the New York
4 state election law or to a board of fire commissioners established
5 in accordance with section 3-308 of the village law or section one
6 hundred seventy-four of the town law, and shall not, within ten
7 days succeeding the same, decline the said nomination, shall be
8 deemed thereby to have resigned his or her commission and to have
9 vacated his or her office. The provisions of this section shall
10 apply as long as it does not interfere with his[/] or her
11 performance as a member of the department.

12 The foregoing provisions shall not apply to any member of the
13 uniformed force of the department who, with the written
14 authorization of the mayor, shall accept any additional place of
15 public trust or civil emolument while such member shall be on leave
16 of absence without pay from the department.

17 Sec. 1131. School officers not to be interested in contracts;
18 removal. The board of education shall have the power to remove
19 from office any school officer who shall have been directly or
20 indirectly interested in the furnishing of any supplies or
21 materials, or in the doing of any work or labor, or in the sale or
22 leasing of any real estate, or in any proposal, agreement or
23 contract for any of these purposes, in any case in which the price
24 or consideration is to be paid, in whole or in part, directly or
25 indirectly, out of any school moneys, or who shall have received
26 from any source whatever any commission or compensation in
27 connection with any of the matters aforesaid; and any school
28 officer who shall violate the preceding provisions of this section
29 shall be deemed guilty of a misdemeanor, and shall also forfeit
30 such office and be ineligible to any office or employment under the
31 board of education or under the city or any agency. The provisions
32 of this section shall not apply to authors of school books used in
33 any of the public schools because of any interest they may have as
34 authors in such books.

1 Sec. 1132. Contributions to political funds, etc., prohibited.
2 Neither the city superintendent of schools, nor any associate or
3 assistant superintendent of schools, nor any member of the board
4 of examiners, nor any member of the supervising or teaching staff
5 of the board of education of the city shall be permitted to
6 contribute any moneys directly or indirectly to any fund intended
7 to affect legislation increasing their emoluments, but nothing
8 herein shall be construed to deny any right afforded by section
9 eleven hundred twenty-four.

10 Sec. 1133. Transmission of reports; disposal of records;
11 destruction of other materials. a. The head of each agency shall
12 transmit to the municipal reference and research center at least
13 four copies of each report, document, study or publication of such
14 agency, immediately after the same shall have been issued. The
15 agency head shall transmit to the center four copies of each
16 report, document, study or publication prepared by consultants, or
17 other independent contractors, as soon as such report or study is
18 released.

19 b. No records shall be destroyed or otherwise disposed of by an
20 agency, officer or employee of the city unless approval has been
21 obtained from the commissioner of records and information services,
22 the corporation counsel and the head of the agency which created
23 or has jurisdiction over the records who shall base their
24 determinations on the potential administrative, fiscal, legal,
25 research or historical value of the record. Approval for records
26 disposal shall be contained in an approved records disposal
27 schedule and remain in force until the status of the records
28 changes. The commissioner of records and information services or
29 the head of the agency which created or has jurisdiction over the
30 records may initiate action to eliminate records eligible for
31 disposal. The commissioner of records and information services
32 shall insure the destruction of disposable records within six
33 months of the date of eligibility. Records retained for historical
34 or research purposes shall be transferred, upon request of the

1 commissioner of records and information services, to the municipal
2 archives for permanent custody.

3 c. Other materials not included within the definition of records
4 in this charter may be destroyed, if not otherwise prohibited by
5 law, at any time by the agency in possession of such materials
6 without the approval of the commissioner of records and information
7 services. Such commissioner may, however, formulate procedures and
8 interpretations to guide in the disposition of such materials.

9 Sec. 1134. The head of each agency shall promptly transmit to
10 the council copies of all final reports or studies which the
11 charter or other law requires the agency or any official thereof
12 to prepare. The head of each agency shall also promptly transmit
13 to the council copies of all final audits, audit reports and
14 evaluations of such agency prepared by state or federal officials
15 or by private parties.

16 Sec. [1134]1135. Restriction on community board membership of
17 employees of council members and borough presidents. No person
18 who is employed by a borough president or a council member may be
19 appointed to serve on a community board to which such borough
20 president may make appointments or to which such council member
21 may make recommendations for appointment.

22 Sec. [1135]1136. Certification of officers and employees. a.
23 On or before the tenth day after an individual becomes a public
24 servant, such individual shall file a written statement with the
25 city clerk that such individual has read and shall conform to the
26 provisions of this chapter.

27 b. On or before the tenth day after the head of any mayoral
28 agency commences the performance of official duties, such agency
29 head shall, in addition, file a written statement with the city
30 clerk that such agency head has read and shall conform to the
31 provisions of chapter sixteen.

32 c. The department of personnel shall make available such copies
33 of chapters sixteen and forty-nine as are necessary to fulfill the
34 requirements of this section.

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] council 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

1 include such land under water extending outshore to the pierhead
2 line or the property line, whichever extends furthest outshore.

3 c. "Water front commerce" shall mean the activity on water front
4 property which encompasses the receipt of cargo or goods at the
5 wharves, piers, docks or bulkheads from ships and their delivery
6 to points inland or the receipt of such cargo or goods at such
7 wharves, piers, docks or bulkheads from points inland for shipment
8 by ships and shall include the temporary storage of such cargo or
9 goods in the sheds or warehouses on such property pending their
10 delivery or shipment.

11 d. "Furtherance of navigation" shall mean the activity on water
12 front property which involves ship building, ship repairing,
13 boating, dry dock facilities and similar uses.

14 8. The term "the port of New York" shall include all the waters
15 of the North River, the East River and the Harlem River and all the
16 tidal waters embraced within or adjacent to or opposite to the
17 shores of the city.

18 9. [The terms "three-fourths vote" and "two-thirds vote" when
19 they apply to the board of estimate shall mean respectively
20 three-fourths and two-thirds of the total number of votes which
21 all the members of the board are entitled to cast.

22 10.] The term "administrative code" shall mean the
23 administrative code of the city.

24 [11.]10. The term "budget" shall mean the expense budget unless
25 the context otherwise requires.

26 [12.]11. Except as in this charter otherwise provided, the term
27 "real property" shall include real estate, lands, tenements and
28 hereditaments, corporeal or incorporeal.

29 Sec. 1151. Effect of this charter on existing law. a. All
30 laws and parts of laws relating to or affecting the city of New
31 York or the municipalities consolidated therein in force when this
32 charter as amended shall take effect are hereby repealed and
33 superseded to the extent that the same are inconsistent with the
34 provisions of this charter and no further.

1 b. All other laws and parts of laws shall continue in force
2 until repealed, amended, modified or superseded.

3 c. Insofar as the provisions of this charter are the same in
4 terms or in substance and effect as provisions of law in force when
5 this charter shall take effect, relating to or affecting the city
6 of New York, the provisions of this charter are intended to be not
7 a new enactment but a continuation of such provisions of law, and
8 this charter shall be so construed and applied.

9 Sec. 1152. Time of taking effect. a. This charter shall take
10 effect on the first day of January, nineteen hundred sixty-three
11 and thereafter shall control in respect to all the powers,
12 functions and duties of all officers, agencies, and employees of
13 the city as provided herein, except that chapter twelve hereof
14 shall take effect on January first, nineteen hundred sixty-two.

15 b. The amendments to the charter approved by the electors on
16 November fourth, nineteen hundred seventy-five shall take effect
17 on January first, nineteen hundred seventy-seven, and thereafter
18 shall control as provided in respect to all the powers, functions
19 and duties of all offices, agencies, and employees except as
20 further specifically provided in other sections of this revised
21 charter and except:

22 (1) that existing community districts and community boards
23 shall continue in force and effect until the new community
24 districts and community boards pursuant to chapters sixty-nine and
25 seventy are established pursuant to this revised charter;

26 (2) that powers and duties of community boards and borough boards
27 pursuant to chapters six, eight, nine, fourteen, fifteen,
28 twenty-seven, sixty-nine and seventy shall be assumed by the
29 existing community boards and borough boards on July first,
30 nineteen hundred seventy-six and such boards shall continue to have
31 such powers and duties until new community boards and borough
32 boards are established within the new community districts and the
33 boroughs pursuant to chapters sixty-nine and seventy, which boards
34 shall assume the powers and duties specified in this charter at

1 such time; and

2 (3) that the other amended provisions of this charter requiring
3 any act to be done prior to January first, nineteen hundred
4 seventy-seven shall take effect immediately upon adoption.

5 c. The amendments to the charter approved by the electors on
6 November eighth, nineteen hundred eighty-eight shall take effect
7 immediately, and thereafter shall control as provided in respect
8 to all the powers, functions and duties of all offices, agencies,
9 and employees except as further specifically provided in other
10 sections of this revised charter and except:

11 (1) that, with respect to the tax appeals tribunal
12 established in section one hundred sixty-eight,

13 (a) the mayor shall appoint the first three
14 commissioners, and shall designate one of them as president, no
15 later than the first day of July, nineteen hundred eighty-nine;

16 (b) the tribunal shall adopt rules of procedure pursuant
17 to section one hundred sixty-nine no later than the first day of
18 December, nineteen hundred eighty-nine; and

19 (c) the tribunal shall begin accepting, hearing and
20 determining appeals on the first day of January, nineteen hundred
21 ninety, except that it shall not begin accepting, hearing or
22 determining appeals concerning the taxes authorized by sections
23 one and two of chapter seven hundred seventy-two of the laws of
24 nineteen hundred sixty-six until the later of (A) the date such
25 sections are amended to authorize or otherwise allow such actions
26 or (B) the first day of January, nineteen hundred ninety;

27 (2) that the effective date of section one thousand forty-
28 six shall be the first day of July nineteen hundred ninety and

29 (3) that the provisions of the new chapter sixty-eight,
30 entitled conflicts of interest, shall take effect on the first day
31 of January, nineteen hundred ninety, and the provisions of chapter
32 sixty-eight heretofore in effect, entitled ethics, shall remain in
33 effect up to and including the thirty-first day of December of
34 nineteen hundred and eighty-nine, at which time they shall be

1 repealed, provided, however, that:

2 (a) section twenty-six hundred eight of chapter
3 sixty- eight heretofore in effect shall not be repealed but shall
4 be renumbered as section one hundred thirty-one and shall continue
5 in effect;

6 (b) section twenty-six hundred two shall take effect
7 immediately and subdivisions a, b, c, d, i, j and k of section
8 twenty-six hundred three of the new chapter sixty-eight shall
9 become effective upon confirmation of the members nominated by the
10 mayor pursuant to subdivision c of such section twenty-six hundred
11 two;

12 (c) section twenty-six hundred of chapter sixty-
13 eight heretofore in effect, shall only remain in effect until the
14 confirmation of the members nominated by the mayor pursuant to
15 subdivision c of section twenty-six hundred two of the new chapter
16 sixty-eight; and

17 (d) the powers vested in the board of ethics by
18 chapter sixty-eight heretofore in effect shall, upon the expiration
19 of section twenty-six hundred of such chapter, be transferred,
20 assigned and devolved upon the conflicts of interest board
21 established by section twenty-six hundred two of the new chapter
22 sixty-eight of the charter.

23
24 d. The amendments to the charter approved by the electors on
25 November seventh, nineteen hundred eighty-nine shall take effect
26 on the first day of January, nineteen hundred ninety, and
27 thereafter shall control as provided in respect to all the powers,
28 functions and duties of all offices, agencies and employees, except
29 as further specifically provided in other sections of this charter
30 and except:

31 (1) that, except for section three hundred forty-one which
32 shall take effect on the first day of January, ninety hundred
33 ninety, the provisions of the revised chapter thirteen, entitled
34 procurement, shall take effect on the first day of Septemeber,

1 nineteen hundred ninety, provided, however, that:

2 (a) the appointments required to be made by the mayor
3 and the comptroller to the procurement policy board pursuant to
4 section three hundred forty-one shall be made by the fifteenth day
5 of January, nineteen hundred ninety;

6 (b) the procurement policy board, upon its creation,
7 shall be authorized to exercise the authority granted to it by the
8 remaining sections of the revised chapter thirteen otherwise not
9 to take effect until the first day of September, nineteen hundred
10 ninety, to promulgate rules prior to the effective date of those
11 sections as are necessary to implement the provisions of the
12 chapter. Such rules required by the chapter to be promulgated
13 shall be proposed in accordance with the requirements of
14 subdivision b of section one thousand forty-three of this charter
15 by the first day of June, nineteen hundred ninety; and

16 (c) contract solicitations initiated prior to the first
17 day of September, nineteen hundred ninety which would otherwise
18 require the approval of the board of estimate that are not
19 submitted to the board of estimate for approval by such date shall
20 be awarded by the agency in accordance with the provisions of the
21 revised chapter thirteen and, to the extent practicable, with the
22 rules of the procurement policy board; and

23 (d) all other contract solicitations for which the
24 contract will be executed on or after the first day of September,
25 nineteen hundred ninety shall be awarded in accordance with the
26 provisions of the revised chapter thirteen and, to the extent
27 practicable, with the rules of the procurement policy board.

28 (2) Pursuant to the requirements of chapter 5-A of the
29 charter, the comptroller and the president of the council shall
30 appoint the independent budget office advisory committee no later
31 than the fifteenth day of February of nineteen hundred ninety; such
32 advisory committee shall make its recommendations, to the special
33 committee convened to appoint the director of the independent
34 budget office, no later than the fifteenth day of June of nineteen

1 hundred ninety; and such special committee shall make its
2 appointment of a director no later than the first day of August of
3 nineteen hundred ninety.

4 (3) No appointment to the civil service commission shall be
5 made on or after the first day of January of nineteen hundred
6 ninety except upon the recommendation of the screening committee
7 required by section eight hundred twelve of the charter.

8 (4) The provisions of subdivision b of section one hundred
9 and four of the charter shall not apply to the contract budget
10 submitted by the mayor for the fiscal year beginning the first day
11 of July, nineteen hundred ninety nor to the contract budget adopted
12 by the council for such year.

13 (5) The provisions of sections one hundred ninety-two, one
14 hundred ninety-six, one hundred ninety-eight, and two hundred and
15 three, and the provisions of chapters twenty-seven and seventy-one
16 shall take effect immediately upon certification that the electors
17 have approved the amendments to the charter, provided, however,
18 that subdivision a of section one hundred ninety-two (other than
19 the portions thereof requiring appointments of the members of the
20 city planning commission on or before the first day of March,
21 nineteen hundred ninety and providing for the length of the terms
22 of the first appointees to the commission) shall take effect on the
23 first day of July, nineteen hundred ninety.

24 (6) The provisions of sections one hundred ninety-one, one
25 hundred ninety-three, one hundred ninety-five, one hundred ninety-
26 seven-a, one hundred ninety-seven-b, one hundred ninety-seven-c,
27 one hundred ninety-seven-d, one hundred ninety-nine, two hundred,
28 two hundred and one, two hundred and two, and two hundred and four
29 (except for subdivisions (g) and (h) thereof), and the provisions
30 of chapters fourteen, fourteen-A, fifteen, twenty-one, twenty-one-
31 A, twenty-nine, fifty-nine and sixty-one shall take effect on the
32 first day of July, nineteen hundred ninety, provided, however,
33 that:

1 (a) notwithstanding anything to the contrary herein, the
2 board of estimate shall continue to review and approve applications
3 pursuant to sections one hundred ninety-seven-c and two hundred of
4 the charter as in effect prior to the first day of July, nineteen
5 hundred ninety, that have been acted upon by the city planning
6 commission on or before the thirtieth day of June, nineteen hundred
7 ninety; and

8 (b) Notwithstanding anything to the contrary herein,
9 subdivisions b, d, e, f and g of section one hundred ninety-seven-
10 c shall take effect on the second day of May, nineteen hundred
11 ninety; and the period for review of applications by the borough
12 presidents provided for in such subdivision g shall extend until
13 the thirtieth day of June, nineteen ninety in the case of all
14 applications referred to the borough presidents in the month of
15 May, nineteen hundred ninety.

16 (7) Subdivisions g and h of section two hundred and four
17 shall take effect on the first day of July, nineteen hundred
18 ninety-one.

19 (8) An elected city official who, as of the first day of
20 January nineteen hundred ninety, holds both an elected city office
21 and a party office, shall not be subject to the requirements of
22 paragraph fifteen of subdivision c of section twenty-six hundred
23 four in regard to such offices until the earlier of (i) the
24 expiration of the term, of the city office, to which such official
25 was elected prior to such date; or (ii) the expiration of the term,
26 of the party office, to which such official was elected or
27 appointed prior to such date.

28 9(a) Notwithstanding the provisions of section 25, the
29 council members elected at the general election in the year
30 nineteen hundred eighty-nine shall serve for a term of two years
31 and an additional election of council members shall be held at the
32 general election in the year nineteen hundred ninety-one. The
33 council members elected at such election shall serve for a term of
34 two years

1 (b) Notwithstanding the provisions of paragraph 2 of
2 subdivision b, and subdivision c, of section fifty, a districting
3 commission shall be appointed to prepare a districting plan for the
4 nineteen hundred ninety-one additional election of council members
5 in accordance with all of the requirements of chapter 2-A except
6 that such appointments shall be made in accordance with the
7 following schedule:

8 (i) between the tenth and twentieth days of January nineteen
9 hundred ninety, the mayor shall convene the meeting or meetings
10 required by paragraph 2 of subdivision b of section 52;

11 (ii) on or before the fifteenth day of March of nineteen
12 hundred ninety, each council delegation authorized to make
13 appointments to the districting commission shall make such
14 appointments, and each chairperson of a county committee of a
15 political party authorized to submit nominations to the mayor shall
16 submit such nominations; and

17 (iii) following the actions required by paragraph b of this
18 subdivision but no later than the fifteenth day of April of
19 nineteen hundred ninety, the mayor shall make the remaining
20 appointments to the districting commission.

21 (c) Following its appointment, the districting commission
22 shall meet at least once each month during nineteen hundred ninety
23 and at least once every two weeks during nineteen hundred ninety-
24 one until such time as it has completed its duties pursuant to this
25 section and chapter 2-A.

26 (d) In carrying out its responsibilities under this section
27 and chapter 2-A, the commission shall utilize the final count
28 results of the nineteen hundred ninety census delivered to the
29 governor no later than the first day of April of nineteen hundred
30 ninety-one in accordance with the provisions of section one hundred
31 forty-one of title thirteen of the United States Code.

32 (e) As soon as practicable, the commission shall (a)
33 establish liaison with the United States Census Bureau and relevant
34 New York State agencies to facilitate the orderly and timely

1 receipt of the results of the nineteen hundred ninety census in a
2 format that will facilitate the commission's completion of its
3 responsibilities and (b) obtain such equipment, software, services
4 and personnel as are necessary for it to effectively carry out its
5 responsibilities under this section and chapter 2-A.

6 (f) On or before the fifteenth day of May of nineteen hundred
7 ninety, the Director of City Planning shall present to the
8 commission an analysis of the demographic changes that have
9 occurred in the City of New York since the nineteen hundred eighty
10 census, a summary of the various estimates that have been made of
11 the nineteen hundred ninety population of the city and various
12 subdivisions of the city, an analysis of the implications of such
13 forecasts for the establishment of districts for the nineteen
14 hundred ninety-one council elections, and estimates of the nineteen
15 hundred ninety population and population characteristics of
16 existing council, assembly, community and congressional districts,
17 to the extent such information is available. The director of city
18 planning shall periodically thereafter provide the commission with
19 any revisions of such information and any such additional
20 information that will be of assistance to the commission in
21 carrying out its responsibilities under chapter 2-a. The director
22 of city planning shall, to the maximum extent practicable, provide
23 the commission with such technical assistance as it may require to
24 carry out its responsibilities.

25 (g) On or before the fifteenth day of June of nineteen
26 hundred ninety, the Director of city planning and the corporation
27 counsel shall provide the commission with all information,
28 available to them, regarding the status of the nineteen hundred
29 ninety census and the schedule for the release of the results such
30 census, as will assist the commission in developing the work plan
31 and schedule required by subdivision nine of this section.

32 (h) On or before the fifteenth day of June of nineteen
33 hundred ninety, the director of city planning and the commissioner
34 of computer and data communications services will provide the

1 commission with as complete a listing as possible of the computer
2 software products available for the utilization of census data in
3 the establishment of districts and the analysis of the demographic
4 characteristics of such districts; a comparative evaluation of the
5 strengths, weaknesses, costs and benefits of the various products
6 available including information as to the quantity and type of
7 staff necessary to utilize the various products; an identification
8 and description of the relevant professional services available
9 from public and private entities; including information regarding
10 the rates at which such services are likely to be available; and
11 a description of the assistance which the department of city
12 planning and the computer and data communications services agency
13 can provide to the commission.

14 (i) On or before the fifteenth day of September of nineteen
15 hundred ninety, the commission shall adopt a work plan and time
16 schedule for the establishment of council districts for the
17 nineteen hundred ninety-one elections in accordance with this
18 section and chapter 2-A of the charter.

19 (j) Between the first day of October and the tenth day of
20 December of nineteen hundred ninety, the commission shall hold at
21 least one public hearing in each borough to obtain (i) information
22 regarding demographic trends and conditions and suggestions
23 regarding the factors that interested parties believe the
24 commission should consider and the procedures that it should
25 utilize in the establishment of council districts for the nineteen
26 hundred ninety-one elections.

27 (k) On or before the first day of February of nineteen
28 hundred ninety-one, the commission shall produce and make available
29 for public inspection prototype fifty-one district plans for the
30 purpose of testing and demonstrating the analytical and technical
31 capabilities necessary to meet the deadlines set forth in
32 subdivision eleven of this section.

33 (l) Notwithstanding the provisions of section fifty-one, the
34 commission shall complete the steps required by such section in

1 accordance with the following schedule:

2 (i) on or before the first day of May of nineteen hundred
3 ninety-one, the commission shall make its plan available to the
4 public for inspection and submit copies to the council for its
5 review and comment; and on or before the tenth day of such month
6 it shall hold one or more public hearings on such plan;

7 (ii) on or before the twentieth day of May of nineteen hundred
8 ninety-one, the commission shall make a revised plan and supporting
9 data available for public inspection, and shall give public notice
10 that comments on such revised plan may be submitted through the
11 twenty-seventh day of May of nineteen hundred ninety-one; and

12 (iii) on or before the seventh day of June of nineteen hundred
13 ninety-one, the commission shall adopt its final plan in accordance
14 with subdivision f of section 51 and shall hold one or more public
15 hearings on such plan.

16 (10) that the amendments to chapter forty-six shall take
17 effect immediately.

18 (11) that the repeal of chapter three of the charter,
19 heretofore in effect, entitled Board of Estimate, and the repeal
20 of subdivision nine of section eleven hundred fifty, heretofore in
21 effect, shall take effect on the first day of September of nineteen
22 hundred ninety.

23 e. Officers and employees of the city may take any actions as are
24 necessary and appropriate to prepare for the implementation of the
25 provisions of amendments to the charter approved by the electors
26 on November seventh, nineteen hundred eighty-nine prior to such
27 effective dates as are prescribed by subdivision d of this section.

28 Sec. 1153. Separability clause. If any provision of this
29 charter or of any amendments thereto shall be held invalid or
30 ineffective in whole or in part or inapplicable to any person or
31 situation, it is the purpose and intent of this charter that all
32 other provisions thereof shall nevertheless be separately and fully
33 effective and that the application of any such provision to other
34 persons or situations shall not be affected.

1 Sec. 1154. Short title. This charter shall be known and may
2 be cited as "The New York City Charter."

3 [Sec. 1155. Public attendance at executive sessions. a.
4 Except as otherwise provided pursuant to subdivision b of this
5 section, the public may attend all sessions or meetings of the
6 following agencies whenever items on the calendar of such agency
7 are to be considered and acted upon in a preliminary or final
8 manner: art commission, conciliation and appeals board,
9 environmental control board, board of health, landmarks
10 preservation commission, city planning commission, board of
11 standards and appeals, tax commission, youth board, board of
12 estimate and its committees, and the council and its committees.

13 b. Any agency specified pursuant to subdivision a of this
14 section may convene an executive session closed to the public by
15 a three-fourths vote of all of its members, but shall not take
16 final action at any such meeting.]

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] such executive director or in the office by this chapter or otherwise. In the performance of his or her functions the executive director shall have, in addition to such others as may be conferred upon him or her 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.

1 5. To be responsible for coordinating the activities of public
2 or quasi-public bodies to ensure effective economic development
3 policies and programs in city agencies.

4 Sec. 1313. Functions of the office. Except as otherwise provided
5 by law, the office shall perform all those functions and operations
6 performed by the city of New York relating to the economic
7 development of the city, including, without limitation, the
8 following:

9 1. With respect to economic development the office shall have
10 the power and duty:

11 a. To establish business, industrial and commercial policies,
12 programs and projects which affect the business, industry,
13 industrial, commercial or economic well-being, development, growth
14 and expansion of the economic life of the city, except for those
15 functions which have been delegated to another agency of city
16 government by statute, local law or executive order, in which
17 instance the office of economic development shall review and
18 coordinate those functions, together with the other agency of city
19 government to which those functions have been delegated.

20 The heads of all city agencies are hereby directed to forward
21 to the office for economic development all economic development
22 proposals following intake of said proposals. Upon receipt of a
23 proposal, the office for economic development shall assume
24 responsibility for said proposal but the forwarding agency shall
25 furnish the office for economic development such assistance as may
26 be required to carry out the proposal;

27 b. To serve as liaison for the city with the New York city
28 industrial development agency, the public development corporation
29 and all other public or quasi-public bodies involved in economic
30 development within the city or any other such body as the mayor
31 shall direct;

32 c. To study, organize, promote, coordinate and carry out within
33 or without the city, activities, projects and programs designed to
34 encourage, stimulate and foster the well-being, development, growth

1 and expansion of business, industry and commerce in the city, and
2 the enhancement and protection of the economic life of the city;

3 d. To assist, encourage and promote broadened employee ownership,
4 particularly through the use of employee stock ownership plans and
5 producer cooperatives, by conducting research, outreach and public
6 informational programs pertaining to employee ownership and
7 employee stock ownership plans; by providing technical assistance
8 to employee groups exploring an employee buyout, where such an
9 action might be instrumental in retaining a business within the
10 City of New York; and by ensuring that firms applying for financial
11 assistance from any of the public or quasi-public bodies involved
12 with economic development in the City of New York shall be
13 correctly advised as to the potential advantages of forming an
14 employee stock ownership plan.

15 2. To serve as a clearing house in connection with efforts to
16 devise solutions for problems affecting business, industry and
17 commerce in the city;

18 3. To promote and encourage the expansion and development of
19 markets for city products;

20 4. To promote and encourage the location and development of new
21 business and industry in the city, as well as the maintenance and
22 expansion of existing business and industry, and for the purpose
23 to cooperate with public and private agencies, organizations and
24 individuals;

25 5. To study conditions affecting business, industry and commerce
26 in the city, and to collect and disseminate such information, make
27 such studies and carry on such education activities as may be
28 necessary or useful in the effective execution of the powers of the
29 office in relation to the promotion and development of business,
30 industry and commerce in the city;

31 6. To maintain a business information service in order to assist
32 business and industry in the city, and to encourage business and
33 industry outside of the city to patronize the business and
34 industrial establishments of the city;

1 7. To make to the mayor, from time to time, recommendations
2 concerning steps deemed advisable for the promotion and advancement
3 of business and industrial prosperity in the city and the
4 elimination of restrictions, burdens and handicapping factors
5 having an adverse effect on business, industry and commerce in the
6 city;

7 8. To publicize the economic advantages and other factors which
8 make the city a desirable location for business and industry;

9 9. To collect information and compile and distribute literature
10 and publicity material dealing with the facilities, advantages and
11 attractions of the city and the historic and scenic points and
12 places of interest therein;

13 10. To plan and conduct publicity and information programs
14 designed to attract tourists, vacationers, visitors and other
15 interested persons to the city, and to encourage, coordinate and
16 cooperate with the efforts of public and private agencies,
17 organizations and groups to publicize the advantages and
18 attractions of the city for such purposes;

19 11. To encourage and cooperate with the efforts of public and
20 private agencies, organizations and groups in publicizing the
21 business, industrial and commercial advantages of the city;

22 12. To cooperate with and assist any corporation, organization,
23 agency or instrumentality, whether public or private, the objects
24 of which include, or which is authorized to act for the advancement
25 of the business and industrial prosperity and economic welfare of
26 the city, or the furnishing of encouragement and assistance in the
27 location of new business and industry therein, or the
28 rehabilitation or expansion of existing business and industry
29 therein, or the creation of job opportunities or additional
30 employment therein, so as to provide support by the office for any
31 action, efforts or activities for the accomplishment of any such
32 purposes in the city, on the part of any such corporation,
33 organization, agency or instrumentality; and

1 13. To issue permits for the taking of motion pictures, and for
2 the taking of photographs and for the use or operation of
3 television cameras and/or any other transmitting television
4 equipment in or about city property, or in or about any street,
5 park, marginal street, pier, wharf, dock, bridge or tunnel within
6 the jurisdiction of any city department or agency or involving the
7 use of any city owned or maintained facilities or equipment.

8 Sec. 1314. Waterfront management advisory board. There shall
9 be in the office a waterfront management advisory board which shall
10 consist of twenty-one members and which shall consult with the
11 deputy mayor for economic development and the commissioner of
12 ports[, international] and trade [and commerce] to advise them on
13 matters relating to the industrial, commercial, residential,
14 recreational and any other development of the city's wharves and
15 waterfront property and on other matters and at their request and
16 to render annually by March first as of December thirty-first of
17 the preceding year to the mayor, the [board of estimate] borough
18 presidents, the city council and people of the city a report
19 regarding the development of wharves and waterfront property in the
20 city.

21 The board shall include the deputy mayor for economic
22 development, to be designated as the chairperson of the board, the
23 commissioner of ports[, international] and trade [and commerce] to
24 be designated as the vice chairperson, the director of the office
25 of management and budget, the chairperson of the city planning
26 commission, the commissioner of parks and recreation, the
27 commissioner of housing preservation and development, the
28 commissioner of environmental protection, two city council members
29 to be designated by the city council; in addition, there shall be
30 two labor representatives, two industry representatives, and eight
31 representatives of community interests, one from each borough and
32 three at large, to be selected by the mayor with the advice and
33 consent of the city council. The labor, industry and community
34 representatives shall each serve for a three-year term without

1 compensation.

2 Sec. 1315. New York city sports commission. a. There shall be
3 established a New York city sports commission consisting of five
4 members who shall serve without compensation, each for a term of
5 three years. Two members of the commission shall be appointed by
6 the mayor, and two members shall be appointed by the
7 [vice-chairman] speaker of the council, and one member shall be
8 designated as chairperson by the mayor after consultation with the
9 [vice-chairman] speaker.

10 The commission may appoint an executive director to serve at
11 its pleasure and may employ or retain other employees and
12 consultants within appropriations for such purpose.

13 b. Each member may designate a representative who may vote on
14 behalf of such member and who shall be counted as a member for the
15 purpose of determining the existence of a quorum. The designation
16 of a representative shall be made in a prior written notice served
17 upon the chairperson of the commission.

18 c. The commission shall:

19 (1) make recommendation to insure the continuation and growth
20 of a healthy environment for professional, amateur and scholastic
21 sports activities in the city; and

22 (2) seek to promote the city as a positive and profitable base
23 for professional sports teams wishing to relocate their
24 organizations; and

25 (3) perform such other duties as may be necessary as determined
26 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 commissioner 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; and

(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

1 minimum charges for the supply of water by meter, annual service
2 charges and charges for meters and their connections and for their
3 setting, repair and maintenance and charges for water where a meter
4 shall fail to register correctly or shall cease to record the flow
5 of water or where a meter shall have been removed, and in cases in
6 which no fines are fixed by provision of law, or fixing and
7 collecting fines for violations of rules and regulations; but no
8 fines shall be imposed against any property unless notice thereof
9 by mail is addressed to the owner of the property, or if his name
10 is unknown, then to the "owner or occupant" thereof and a hearing
11 is held;]

12 (2) The commissioner shall examine into the sources of water
13 supply of any private companies supplying the city or any portion
14 thereof or its inhabitants with water to see that the same is
15 wholesome and the supply is adequate, to establish such rules and
16 regulations in respect thereof as are reasonable and necessary for
17 the convenience of the public and to exercise superintendence,
18 regulation and control in respect to the supply of water by such
19 water companies;

20 (3) Except as otherwise provided by law and subject to the
21 provisions of this chapter, the commissioner shall regulate and
22 control emissions into the water within and about the city of New
23 York of harmful or objectionable substances, contaminants and
24 pollutants; enforce all laws, rules and regulations with respect
25 to such emissions; make such investigations and studies as may be
26 desirable for the purpose of such enforcement and of controlling
27 and eliminating pollution of such waters, and for such purpose
28 shall have the power to compel the attendance of witnesses and to
29 take their testimony under oath.

30 b. Sewage control.

31 (1) The commissioner shall have charge and control over the
32 location, construction, alteration, repair, maintenance and
33 operation of all sewers including intercepting sewers and sewage
34 disposal plants, and of all matters in the several boroughs

1 relating to public sewers and drainage, and shall initiate and make
2 all plans for drainage and shall have charge of all public and
3 private sewers in accordance with such plans; and shall have charge
4 of the management, care and maintenance of sewer and drainage
5 systems therein.

6 (2) The commissioner may adopt regulations requiring the
7 discharge of sewage, refuse, factory waste and trade waste into
8 the public sewers of the city, or regulating, restricting or
9 prohibiting the use of public sewers for the discharge therein of
10 any material or substance and may prescribe civil penalties for
11 the violation thereof.

12 c. Air resources control.

13 The commissioner shall regulate and control the emission into
14 the open air of harmful or objectionable substances, including,
15 but not limited to, smoke, soot, dust, fumes, flash, gas vapors,
16 odors and any products of combustion or incomplete combustion
17 resulting from the use of fuel burning equipment or from the
18 heating of fuels or refuse. [He] The commissioner shall enforce
19 all laws, rules and regulations with respect to such emissions[.
20 He] and shall make such investigations and studies as may be
21 desirable for the purpose of such enforcement and of controlling
22 and eliminating air pollution, and for such purpose shall have
23 power to compel the attendance of witnesses and to take their
24 testimony under oath.

25 d. Noise pollution control.

26 The commissioner shall enforce all laws, rules and regulations
27 to eliminate noise pollution. [He] The commissioner shall make
28 investigations and studies to develop permissible sound levels and
29 to correct problems related to noise control, and, for such
30 purposes, [he] shall have power to compel the attendance of
31 witnesses and to take their testimony under oath.

32 e. Review of environmental consequences of certain activities.

33 The commissioner shall review and comment upon the environmental
34 consequences of any activity requiring the approval of any agency

1 of the city where such activity may have a significant impact on
2 the physical aspects of the environment of the city, and shall be
3 responsible for investigating, evaluating and reporting upon
4 activities related to fuel supply and demand, alternative sources
5 of energy, and resource recovery.

6 f. Resource recovery task force.

7 (1) There shall be a resource recovery task force, which shall
8 consist of no more than twelve employees, as well as such clerical
9 and secretarial staff as may be necessary, all of whom shall be
10 assigned by the commissioners of the department of environmental
11 protection and the department of sanitation. The commissioners
12 shall jointly appoint an executive director who shall report
13 directly to both commissioners.

14 (2) The task force shall advise and make recommendations to
15 both commissioners with respect to planning and implementation of
16 programs of energy and materials recovery for the city's solid and
17 liquid wastes.

18 (3) The approval of both commissioners shall be required prior
19 to the adoption of any plan, action or regulation recommended by
20 the task force except as to environmental impact determinations
21 which shall be the sole responsibility of the commissioner of
22 environmental protection.

23 g. Energy. The commissioner shall have the power and duty of
24 formulating an energy policy for the city. In formulating such
25 policy, the commissioner shall analyze the energy and fuel needs
26 of the city with respect to all kinds of energy, prepare
27 intermediate and long range plans, goals and programs designed to
28 meet such needs, establish priorities, among them, to study,
29 organize, promote, coordinate and carry out activities, projects
30 and programs designed to encourage fuel and energy conservation,
31 alternate sources of fuel and energy and encourage, stimulate and
32 foster others in these programs and goals.

33 h. Emergency response. The commissioner shall have the power
34 to respond to emergencies caused by releases or threatened releases

1 of hazardous substances into the environment. The commissioner may
2 (1) implement any response measures deemed to be necessary to
3 protect the public health or welfare or the environment from a
4 release or threat of release, (2) order responsible persons to
5 undertake response measures, and (3) recover the costs of response
6 measures incurred by the department from responsible persons.

7 i. Community right-to-know. The commissioner shall have the
8 power to collect, compile and manage information concerning the
9 amount, location and nature of hazardous substances present in the
10 city. This information shall be made available to city personnel
11 responsible for responding to emergencies involving hazardous
12 substances and the public.

13 Sec. 1404. Environmental control board. a. There shall be in
14 the department an environmental control board consisting of the
15 commissioner, who shall be chairman, the commissioner of
16 sanitation, the commissioner of buildings, the commissioner of
17 health, the police commissioner, the fire commissioner and the
18 commissioner of consumer affairs, all of whom shall serve on the
19 board without compensation and all of whom shall have the power to
20 exercise or delegate any of their functions, powers and duties as
21 members of the board, and six persons to be appointed by the mayor,
22 with the advice and consent of the city council, who are not
23 otherwise employed by the city, one to be possessed of a broad
24 general background and experience in the field of air pollution
25 control, one with such background and experience in the field of
26 water pollution control, one with such background and experience
27 in the field of noise pollution control, one with such background
28 and experience in the real estate field, one with such background
29 and experience in the business community, and one member of the
30 public, and who shall serve for four-year terms. Such members shall
31 be compensated at the rate of one hundred fifty dollars per day
32 when performing the work of the board. Within its appropriation,
33 the board may appoint an executive director and such hearing
34 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;

1 (h) the response to emergencies caused by releases or threatened
2 releases of hazardous substances; and

3 (i) the reporting of information relating to the amount,
4 location and nature of hazardous substances, and the labeling of
5 hazardous substances.

6 (2) The board shall have concurrent jurisdiction with the board
7 of health to enforce those provisions of the health code and the
8 rules and regulations relating thereto which the board of health
9 shall designate.

10 (3) The board shall have authority from time to time to make,
11 amend and rescind such rules and regulations as may be necessary
12 to carry out its duties under this subdivision.

13 d. (1) (a) The environmental control board shall conduct
14 proceedings for the adjudication of violations of the laws, rules
15 and regulations enforced by it pursuant to the provisions of
16 subdivision c of this section or of any other law providing for
17 enforcement by the environmental control board in accordance with
18 this paragraph (1) and with rules and regulations promulgated by
19 the board, and shall have the power to render decisions and orders
20 and to impose the civil penalties provided under law for such
21 violations.

22 (b) The form and wording of notices of violation shall be
23 prescribed by the board. The notice of violation or copy thereof
24 when filled in and served shall constitute notice of the violation
25 charged, and, if sworn to or affirmed, shall be prima facie
26 evidence of the facts contained therein.

27 (c) The notice of violation shall contain information advising
28 the person charged of the manner and the time in which such person
29 may either admit or deny the violation charged in the notice. Such
30 notice of violation shall also contain a warning to advise the
31 person charged that failure to plead in the manner and time stated
32 in the notice may result in a default decision and order being
33 entered against [him] such person. The original or a copy of the
34 notice of violation shall be filed and retained by the board and

1 shall be deemed a record kept in the ordinary course of business.

2 (d) Where a respondent has failed to plead within the time
3 allowed by the rules of the board or has failed to appear on a
4 designated hearing date or a subsequent date following an
5 adjournment, such failure to plead or appear shall be deemed, for
6 all purposes, to be an admission of liability and shall be grounds
7 for rendering a default decision and order imposing a penalty in
8 the maximum amount prescribed under law for the violation charged.

9 (e) Any final order of the board imposing a civil penalty,
10 whether the adjudication was had by hearing or upon default or
11 otherwise, shall constitute a judgment rendered by the board
12 which may be entered in the civil court of the city of New York or
13 any other place provided for the entry of civil judgments within
14 the state, and may be enforced without court proceedings in the
15 same manner as the enforcement of money judgments entered in civil
16 actions; provided, however, that no such judgment shall be entered
17 which exceeds the sum of ten thousand dollars for each respondent.

18 (f) Notwithstanding the foregoing provision, before a judgment
19 based upon a default may be so entered the board must have notified
20 the respondent by first class mail in such form as the board may
21 direct:

22 (i) of the default decision and order and the penalty
23 imposed;

24 (ii) that a judgment will be entered in the civil court of the
25 city of New York or any other place provided for the entry of
26 civil judgments within the state of New York; and

27 (iii) that entry of such judgment may be avoided by requesting
28 a stay of default for good cause shown and either requesting a
29 hearing or entering a plea pursuant to the rules of the board
30 within thirty days of the mailing of such notice.

31 (g) A judgment entered pursuant to this paragraph shall remain
32 in full force and effect for eight years.

33 (h) Notwithstanding any inconsistent provision of section
34 fifteen hundred four of the New York city civil court act, an

1 execution with respect to a judgment of the board arising out of
2 any violation of a provision of chapter thirty-one of the
3 administrative code of the city of New York shall be directed only
4 to the sheriff.

5 (2) The environmental control board shall not enter any final
6 decision or order pursuant to the provisions of paragraph one of
7 this subdivision unless the notice of violation shall have been
8 served in the same manner as is prescribed for service of process
9 by article three of the civil practice law and rules or article
10 three of the business corporation law, except that;

11 (i) service of a notice of violation of any provisions of the
12 charter or administrative code the enforcement of which is the
13 responsibility of the fire commissioner, the commissioner of
14 buildings or the commissioner of environmental protection and over
15 which the environmental control board has jurisdiction, may be made
16 by delivering such notice to a person employed by the respondent
17 on the premises the occupancy of which caused such violation; and

18 (ii) service of a notice of violation of any provision of the
19 charter or administrative code, the enforcement of which is the
20 responsibility of the commissioner of sanitation and over which
21 the environmental control board has jurisdiction, may be made by
22 affixing such notice in a conspicuous place to the premises, the
23 occupancy of which caused such violation.

24 Such notice may only be affixed or delivered pursuant to items
25 (i) and (ii) above where a reasonable attempt has been made to
26 deliver such notice to a person in such premises upon whom service
27 may be made as provided for by article three of the civil practice
28 law and rules or article three of the business corporation law.
29 When a copy of such notice has been affixed or delivered, pursuant
30 to items (i) and (ii) above, a copy shall be mailed to the person
31 at the address of such premises and, if the respondent is the owner
32 or agent of the building with respect to which such notice was
33 issued and the identity of and an address for such person is
34 contained in any of the files specified in subparagraphs (a), (b)

1 and (c) of this paragraph, a copy of the notice shall also be
2 mailed:

3 (a) to the person registered with the department of housing
4 preservation and development as the owner or agent of the premises,
5 at the address filed with such department in compliance with
6 article two of subchapter four of chapter two of title twenty-seven
7 of the administrative code; or

8 (b) to the person designated as owner or agent of the building
9 or designated to receive real property tax or water bills for the
10 building at the address for such person contained in one of the
11 files compiled by the department of finance for the purpose of the
12 assessment or collection of real property taxes and water charges
13 or in the file compiled by the department of finance from real
14 property transfer forms filed with the city register upon the sale
15 or transfer of real property; or

16 (c) to the person described as owner or agent of the premises,
17 at the address for such person contained in the files of the agency
18 which issued such notice of violation compiled and maintained for
19 the purpose of the enforcement of the provisions of the charter or
20 administrative code or other law over which such agency has
21 jurisdiction. Proof of such service shall be filed with the
22 Environmental Control Board within twenty days; service shall be
23 completed within ten days after such filing.

24 (3) The environmental control board may apply to a court of
25 competent jurisdiction for enforcement of any other decision or
26 order issued by such board or of any subpoena issued by such board.

CHAPTER 58
DEPARTMENT OF FINANCE

1 Sec. 1501. Department; commissioner. There shall be a
2 department of finance, the head of which shall be the commissioner
3 of finance.

4 Sec. 1502. Deputies. The mayor may appoint three deputy
5 commissioners. The commissioner and deputy commissioners shall
6 provide a bond.

7 Sec. 1503. Powers and duties of the commissioner. In the
8 performance of his or her functions, the commissioner shall have,
9 in addition to such others as may be conferred upon [him] such
10 commissioner from time to time by law, the power and duty[:] to
11 prepare and [disperse] disburse payroll checks upon a master
12 warrant prepared by the comptroller as prescribed in the
13 administrative code.

14 Sec. 1504. Functions of the department. Except as otherwise
15 provided by law, the department shall perform those functions and
16 operations of the city which relate to the administration and
17 collection of all taxes, assessments and charges imposed by the
18 city, the collection of arrears due the city and all other sums due
19 the city, including state and federal aid, the receipt and
20 safekeeping of all moneys paid into the city treasury and payment
21 of money out of the treasury, and the administration and management
22 of certain trust funds held by the city, including, without
23 limitation, the following:

24 1. Real property assessment. With respect to real property
25 tax assessment, the department shall assess for taxation all the
26 taxable real property in the city and prepare the assessment rolls.
27 The commissioner shall appoint, within the appropriation therefor,
28 as many assessors as shall be necessary for the performance of such
29 functions in accordance with the provisions of this chapter.

30 2. Tax collection. a. The department shall administer all
31 excise and non-property taxes imposed or administered by the city.
32 With respect to such taxes, the department shall have the power to
33

1 settle and adjust all claims in favor of or against the city and
2 to make determinations in contested cases. For such purposes, the
3 commissioner or [his] a delegate may hold hearings and administer
4 oaths.

5 b. The department shall collect all real property taxes, water
6 and sewer charges, other assessments and arrears against real
7 property and all other taxes, assessments and arrears payable to
8 the city.

9 3. Deposit and payment of moneys in the city treasury; trust
10 funds.

11 a. The department shall have the power and duty to provide
12 for the reception and safekeeping of all moneys paid into the
13 treasury of the city and for the payment of all moneys on warrants
14 drawn by the comptroller and countersigned by the commissioner.

15 b. The department shall administer and manage all trust funds
16 received or held by the city pursuant to a judgment, decree or
17 order of any court or under section eleven hundred twenty-three of
18 the surrogate's court procedure act, section ninety-nine-m of the
19 general municipal law, [section] sections eighty-seven and three-h
20 of the social services law, sections four hundred twenty-six and
21 four hundred thirty-two of the real property law, section two
22 hundred four of the lien law, [section two hundred twenty-five of
23 the family court act] and section five hundred fifty-three of the
24 county law, and in such administration it shall be deemed to be
25 acting in a fiduciary capacity. The department shall provide for
26 the receipt and safekeeping of all such moneys of the trust funds
27 held by the city and disburse the same on warrants signed by the
28 comptroller.

29 c. (i) Notwithstanding any provision of law to the contrary
30 and unless otherwise determined by the court which directed payment
31 of the funds in the first instance, for purposes of administering
32 and managing the trust funds, other than cemetery trust funds,
33 enumerated in paragraph b of this subdivision, whenever the
34 department is permitted or required by law to deposit such funds

1 in a savings bank, trust company, bank, or banking association, or
2 to invest such funds in its discretion or in legal investments for
3 trustees or savings banks, the department may combine all such
4 trust funds into one or more common trust funds, which may be
5 deposited in such savings banks, trust companies, banks or banking
6 associations as are designated by the state comptroller pursuant
7 to section one hundred eighty-two of the state finance law, or
8 invested in legal investments for trustees or savings banks. Such
9 funds, when deposited in a savings bank, trust company, bank or
10 banking association, may be placed in demand or time deposit
11 accounts, including time certificates of deposit, and such deposits
12 shall be either insured by a federal deposit insurance corporation
13 or fully collateralized by securities acceptable to the state
14 comptroller.

15 (ii) The department may retain trust funds temporarily pending
16 investment or deposit or to meet cash requirements in connection
17 with the deposit or withdrawal of such funds, but such temporary
18 retention of trust funds shall not deprive any owner or beneficiary
19 of any income therefrom to which [he] the owner or beneficiary
20 would otherwise be entitled by law.

21 (iii) When trust funds are received by the department it shall
22 forthwith open and maintain a separate ledger account for each
23 action, proceeding or matter and shall keep an exact accounting of
24 all such funds and all income earned thereon in such manner as the
25 state comptroller may prescribe.

26 Sec. 1505. Real property tax assessment. The department shall
27 have those powers and duties with respect to the assessment of
28 real property for taxation as are prescribed by this chapter
29 and, in addition such other powers and duties as may be conferred
30 upon it by law. The department shall maintain in each borough an
31 office for the performance of such powers and duties.

32 Sec. 1506. Duties of the assessors. The assessors, under the
33 direction of the commissioner, shall assess all the real property
34 in the several districts that may be assigned to them by the

1 commissioner and shall prepare the assessment rolls. The term
2 "assessment" shall mean a determination by the assessors of (a) the
3 taxable status of real property as of the taxable status date; and
4 (b) the valuation of real property, including the valuation of
5 exempt real property, and where such property is partially exempt,
6 the valuation of both the taxable and exempt portions.

7 Sec. 1507. Taxable status of property. The taxable status of
8 all real property assessable for taxation in the city shall be
9 fixed for the succeeding fiscal year on the fifth day of January
10 in each year.

11 Sec. 1508. Assessment of real property. The assessors shall
12 commence to assess real estate on the first day of July in each
13 year, not a Saturday, Sunday or legal holiday.

14 Sec. 1509. Statement of assessed valuation. An assessor or
15 other person designated by the commissioner shall compute from the
16 annual record of the assessed valuation of real estate in each
17 borough the total aggregate amount of the assessed valuation of
18 real property appearing on such annual record for such borough, and
19 shall transmit a statement of such aggregate amount to the
20 commissioner on or before the fifth day of January in each year.

21 Sec. 1510. Annual record of assessed valuation; public
22 inspection. The books of the annual record of the assessed
23 valuation of real estate shall be opened to the public not later
24 than the fifteenth day of January in each year, not a Saturday,
25 Sunday or legal holiday, and remain open during the usual business
26 hours for public inspection and examination until the first day of
27 March thereafter. The commissioner, previous to and during the time
28 such books are open to public inspection, shall advertise such fact
29 in the City Record and in such other newspaper or newspapers
30 published in the several boroughs as may be authorized by the
31 director of the City Record with the approval of the mayor and the
32 comptroller.

33 Sec. 1511. Notice of increase in assessed valuation of real
34 property. The department or division responsible for the

1 assessment of real property shall, upon an increase in assessed
2 valuation of real property, notify the owner, as recorded in said
3 department or division, of such increase by first-class mail at
4 least thirty days prior to the final date for filing any appeal.
5 The department or division shall notify the commissioner of the
6 mailing of such notices by the filing of an affidavit of such
7 mailing in the main office of the department.

8 Sec. 1512. Annual record of assessed valuation, additions and
9 changes. During the time the books of the annual record of the
10 assessed valuation of real estate remain open for public inspection
11 and examination, and, in the case of real estate other than
12 residential real estate, during an additional period ending the
13 tenth day of May in each year, the commissioner may place on such
14 books any real estate and also the assessed valuation of any such
15 real estate that may have been omitted from such books on the day
16 of the opening thereof, and [he] may increase or diminish the
17 assessed valuation of any real estate as in [his] the
18 commissioner's judgment may be just or necessary for the
19 equalization of taxation; [excepting that in nineteen hundred and
20 eighty-three, the commissioner may diminish the assessed valuation
21 of improved real estate with taxes under \$2,500 annually until the
22 25th day of May;] but no such addition to the books and no such
23 increase in assessed valuation shall be made, except upon mailing
24 ten days' prior written notice addressed to the person whose name
25 appears on the records in the office of the city collector as being
26 the owner or agent of the owner of the real estate affected
27 thereby at the last known address of such owner or agent. Where no
28 name appears on such records such notice shall be sent to the
29 premises addressed to either the owner or agent. An affidavit of
30 such mailing shall be filed in the main office of the department.
31 When such notice is mailed after the first day of February, such
32 owners may apply for a correction of such assessment so added or
33 so increased within twenty days after the mailing of such notice
34 with the same force and effect as if such application were made on

1 or before the first day of March in such year. For purposes of this
2 section the term "residential real estate" shall include but not
3 be limited to one and two-family homes and multiple dwellings
4 (including co-operative and condominium dwelling units), but shall
5 not include hotels, apartment hotels and motels.

6 Sec. 1513. Apportionment of assessments. When any
7 separately assessed parcel of real estate shall have been divided
8 prior to the first day of June, the commissioner may apportion
9 the assessment thereof in such manner as may be provided by law.

10 Sec. 1514. Assessment rolls; preparation and delivery. 1.
11 Commencing immediately after the [closing] close of the period for
12 public inspection and examination of the books of annual record of
13 the assessed valuation of real estate, the commissioner shall cause
14 to be prepared, from such books, assessment rolls for each borough
15 in such manner as shall be provided by law.

16 2. As soon as such rolls are completed, the commissioner
17 shall annex to each of such rolls [his] a certificate that the same
18 is correct in accordance with the entries and corrected entries
19 in the several books of annual record. The rolls so certified
20 must, on or before the twentieth day of June in each year, be
21 delivered by the commissioner to the council.

22 Sec. 1515. Statement and estimate by the mayor. a. The mayor
23 shall prepare and submit to the council, immediately upon the
24 adoption of a single budget pursuant to section [one hundred
25 twenty] eighty-one, a statement setting forth the amount of the
26 budget as approved by the council [and board of estimate] for the
27 ensuing year and the mayor shall prepare and submit to the council
28 not later than the fifth day of June an estimate of the probable
29 amount of (1) receipts into the city treasury during the ensuing
30 fiscal year from all the sources of revenue of the general fund and
31 (2) all receipts other than those of the general fund and taxes on
32 real property. The mayor may include in [his] the statement of the
33 amount of the budget as approved by the council [and board of
34 estimate his] a confirmation of such amount, and thereby waive

1 [his] mayoral veto power pursuant to section [one hundred
2 twenty-one] eighty-two of the charter.

3 b. If, as a result of the exercise of the mayor's veto pursuant
4 to section [one hundred twenty-one] eighty-two, the amount of the
5 budget for the ensuing fiscal year differs from the amount of the
6 budget approved by [the board of estimate and] the council pursuant
7 to section [one hundred twenty] eighty-one, not later than [the
8 twenty-second day of June] two days after the budget is finally
9 adopted the mayor shall prepare and submit to the council a
10 statement setting forth the amount of the budget for the ensuing
11 year, and the council shall, if necessary, fix [a] new annual tax
12 [rate] rates pursuant to subdivision c of section one thousand five
13 hundred sixteen.

14 c. The mayor, prior to establishing the final estimate of
15 revenue for the ensuing fiscal year as required by this section,
16 shall consider any alternative estimate of revenues which is
17 submitted pursuant to subdivision d of this section and which is
18 accompanied by a statement of the methodologies and assumptions
19 upon which such estimate is based in such detail as is necessary
20 to facilitate official and public understanding of such estimates.

21 d. Any person or organization may, prior to the fifteenth day
22 of May, submit to the mayor an official alternative estimate of
23 revenues for consideration by the mayor in accordance with
24 subdivision c. Such estimate shall be in a form prescribed by the
25 mayor.

26 Sec. 1516. Fixing of tax [rate] rates. a. The council shall
27 fix the annual tax [rate] rates immediately upon the approval of
28 the budget pursuant to section [one hundred twenty] eighty-one.
29 The council shall deduct the total amount of receipts as estimated
30 by the mayor from the amount of the budget, for the ensuing fiscal
31 year, and shall cause to be raised by tax on real property such sum
32 as shall be as nearly as possible but not less than, the balance
33 so arrived at, by fixing [a] tax [rate] rates in cents and
34 thousandths of a cent upon each dollar of assessed valuation. The

1 tax [rate] rates shall be such to produce a balanced budget within
2 generally accepted accounting principles for municipalities.

3 b. If a single budget has not been adopted by the fifth day of
4 June pursuant to subdivision b of section one hundred twenty, the
5 tax [rate] rates adopted for the current fiscal year shall be
6 deemed to have been extended for the new fiscal year until such
7 time as a new budget is adopted.

8 c. In the event the mayor exercises the veto power pursuant to
9 section [one hundred twenty-one] eighty-two, the council shall, if
10 necessary, fix [a] new annual [rate] rates not later than the
11 [twenty-third day of June] date the budget is finally adopted, in
12 accordance with the requirements of subdivision a of this section.

13 Sec. 1516-a. Fixing of tax [rate] rates. Notwithstanding
14 provisions of sections fifteen hundred sixteen, fifteen hundred
15 seventeen and fifteen hundred eighteen of the charter or any other
16 provisions of law to the contrary:

17 (a) If the city council has not fixed the tax [rate] rates for
18 the ensuing fiscal year pursuant to section fifteen hundred sixteen
19 of the charter on or before the fifth day of June, the commissioner
20 of finance shall be authorized to complete the assessment rolls
21 using [an] estimated [rate] rates and to collect the sums therein
22 mentioned according to law. The estimated [rate] rates shall equal
23 the tax [rate] rates for the current fiscal year.

24 (b) If, subsequent to the fifth day of June, the council shall,
25 pursuant to section fifteen hundred sixteen of the charter, fix the
26 tax [rate] rates for the ensuing fiscal year at [a percentage]
27 percentages differing from the estimated [rate] rates, real estate
28 tax payments shall nevertheless be payable in accordance with
29 subdivision [(a)] of this section at the estimated [rate] rates.
30 However, in such event, prior to the first day of January in such
31 fiscal year, the commissioner of finance shall cause the completed
32 assessment rolls to be revised to reflect the tax [rate] rates
33 fixed by the council pursuant to section fifteen hundred sixteen
34 of the charter, and an amended bill for the installment or

1 installments for such fiscal year due and payable on or after the
2 first day of January shall be submitted to each taxpayer in which
3 whatever adjustment may be required as a result of the estimated
4 bill previously submitted to the taxpayer shall be reflected.

5 Sec. 1517. Completion of assessment rolls. At such annual
6 meeting the council shall cause to be set down in the assessment
7 rolls, opposite to the several sums set down as the valuation of
8 real property, the respective sums, in dollars and cents, to be
9 paid as a tax thereon, rejecting the fractions of a cent. It shall
10 also cause to be added and set down the aggregate valuations of the
11 real property in the several boroughs, and shall transmit to the
12 comptroller of the state by mail a certificate of such aggregate
13 valuation in each borough.

14 Sec. 1518. Collection of the real property tax. 1. Immediately
15 upon the completion of the assessment rolls, the city clerk shall
16 procure the proper warrants authorizing and requiring the
17 commissioner to collect the several sums therein mentioned
18 according to law. Such warrants need be signed only by the
19 president of the council and counter-signed by the city clerk.
20 Immediately thereafter and on or before the thirtieth day of June,
21 the assessment rolls of each borough, as corrected according to
22 law and finally completed, or a fair copy thereof, shall be
23 delivered by the president of the council to the commissioner with
24 the proper warrants, so signed and counter-signed, annexed thereto.
25 At the same time the president of the council shall notify the
26 comptroller of the amount of taxes in each book of the assessment
27 rolls so delivered.

28 2. The commissioner upon receiving the assessment rolls and
29 warrants shall immediately cause the assessment rolls and warrants
30 to be filed in the respective borough offices.

31 Sec. 1519. Real property taxes due and payable. The
32 commissioner, immediately after receiving the assessment rolls,
33 shall give notice for at least five days in the City Record that
34 the assessment rolls have been delivered to [him] the commissioner

1 and that all taxes shall be due and payable at [his] the
2 commissioner's office as follows:

3 1. a. With respect to all properties which are:

4 (1) real property with an assessed valuation of forty thousand
5 dollars or less on such assessment roll, except such property held
6 in a cooperative form of ownership; or

7 (2) real property held in a cooperative form of ownership,
8 provided that the assessed valuation on such assessment roll of
9 such property divided by the number of dwelling units contained in
10 such property shall equal forty thousand dollars or less; all taxes
11 upon real estate for each fiscal year shall be due and payable in
12 four equal installments each of which shall be due and payable in
13 such year as follows: the first payment on the first day of July,
14 the second payment on the first day of October, the third payment
15 on the first day of January, the fourth payment on the first day
16 of April. However, if any property is acquired by the city in
17 condemnation proceedings, the proportionate share of the amount of
18 the tax on such property which would be due and payable on the next
19 succeeding installment date, shall be due and payable on the date
20 when the title to such property vests in the city.

21 b. With respect to real property other than such property listed
22 in paragraph a of this subdivision one[:].

23 [(1) For the fiscal year commencing on the first day of July
24 nineteen hundred eighty-two: all taxes upon real estate shall be
25 due and payable in three installments as follows: the first
26 payment, consisting of one-fourth of the total amount payable for
27 the year, shall be due and payable on the first day of July, the
28 second payment, consisting of one-fourth of the total amount
29 payable for the year, shall be due and payable on the first day of
30 September, and the third payment, consisting of one-half of the
31 total amount payable for the year, shall be due and payable on the
32 first day of January. However, if any property is acquired by the
33 city in condemnation proceedings, the proportionate share of the
34 amount of the tax on such property which would be due and payable

1 on the next succeeding installment date, shall be due and payable
2 on the date when the title to such property vests in the city.

3 (2) For] for the fiscal year commencing on the first day of July
4 nineteen hundred eighty-three and for each fiscal year thereafter:
5 all taxes upon real estate for each fiscal year shall be due and
6 payable in two equal installments, the first of which shall be due
7 and payable on the first day of July in such year, and the second
8 of which shall be due and payable on the first day of January in
9 such year. However, if any property is acquired by the city in
10 condemnation proceedings, the proportionate share of the amount of
11 the tax on such property which would be due and payable on the next
12 succeeding installment date, shall be due and payable on the date
13 when the title to such property vests in the city.

14 2. All taxes shall be and become liens on the real estate
15 affected thereby and shall be construed as and deemed to be charged
16 thereon on the respective days when they become due and payable,
17 and not earlier, and shall remain such liens until paid.

18 3. Any installment of taxes on real estate for any fiscal year
19 may be paid, in full or in part, twenty-five days prior to the date
20 on which the first installment for such fiscal year would otherwise
21 become due and payable or at any time thereafter and, provided that
22 payment of any installment or part thereof is made not later than
23 fifteen days prior to the date that such installment would
24 otherwise become due and payable and provided that all prior
25 installments shall have been paid or shall be paid at the same
26 time, a discount shall be allowed from the date of payment of such
27 installment or part thereof to and including the fifteenth day of
28 the calendar month on which such installment would otherwise become
29 due and payable at the rate fixed by the council and a receipt
30 shall be furnished to the extent of such payment and the discount
31 thereon. Upon payment of any such installment or part thereof prior
32 to the date such installment would otherwise become due and
33 payable, such installment or part thereof shall be deemed due and
34 payable and shall be satisfied and extinguished to the extent of

1 the amount so paid plus the discount provided for herein. Not
2 later than the fifteenth day of May in each year, the banking
3 commission shall transmit a written recommendation to the council
4 of the proposed discount rate for the ensuing fiscal year. The
5 council may adopt a discount rate for such ensuing fiscal year on
6 the fifth day of June preceding such ensuing fiscal year or at any
7 time thereafter. As used in this subdivision, the words "taxes on
8 real estate," in the case of utility companies, shall also include
9 special franchise taxes.

10 Sec. 1520. Interest and penalties on real property taxes.
11 The commissioner shall charge, receive and collect the interest
12 and penalties upon taxes on real estate not paid when due and
13 payable in such manner and at such rates as shall be provided by
14 law, provided, however, where such taxes are not escrowed, and
15 where such interest does not exceed five dollars, it shall be
16 forgiven.

17 Sec. 1521. Right of entry. The commissioner or any assessor
18 may, in accordance with law, enter upon real property and into
19 buildings and structures at all reasonable times to ascertain the
20 character of the property. Refusal by the owner or [his] the agent
21 of such owner to permit such entry shall be a misdemeanor triable
22 by a judge of the criminal court of the city of New York and
23 punishable by not more than thirty days' imprisonment or a fine of
24 not more than fifty dollars, or both.

25 Sec. 1522. Warrants. No money shall be paid out of the
26 treasury except on a warrant authorized by law, signed by the
27 comptroller and countersigned by the commissioner of finance which
28 shall refer to the law under and to the appropriation against which
29 it is drawn. No warrant shall be paid on account of any
30 appropriation after the amount authorized to be raised for the
31 purpose specified in the appropriation shall have been expended.
32 In counter-signing warrants drawn by the comptroller, the
33 commissioner shall be under no duty of inquiring as to the
34 legality or propriety thereof but may rely on the comptroller's

1 signature thereto.

2 Sec. 1523. Deposits. 1. The commissioner shall deposit all
3 moneys which shall come into [his] the commissioner's hands on
4 account of the city on the day of receipt thereof, or on the
5 business day next succeeding, in such banks and trust companies as
6 shall have been designated as deposit banks, but no amount shall
7 be on deposit at any one time in any one bank or trust company
8 exceeding one-half of the amount of the capital and net surplus of
9 such bank or trust company. The moneys so deposited shall be
10 placed to the account of the commissioner [and he] who shall keep
11 a record in which shall be entered [his] the commissioner's
12 accounts of deposits in, and moneys drawn from, the banks and trust
13 companies in which the deposits shall be made. Each such bank and
14 trust company shall transmit to the comptroller a weekly statement
15 of the moneys which shall be received and paid by it on account of
16 the commissioner.

17 2. The commissioner shall draw moneys of the city from said
18 banks or trust companies only by checks subjoined and attached to
19 warrants and subscribed by [him] the commissioner or by payment
20 orders duly authorized by the comptroller and the commissioner, and
21 no moneys shall be paid by any such banks or trust companies on
22 account of the commissioner except upon such checks or orders; but
23 this provision shall not apply to [transfer checks transferring]
24 transfers of such funds from one city depository to another.

25 Sec. 1524. Deposit banks. 1. The banking commission which
26 consists of the mayor, the commissioner and the comptroller shall,
27 by majority vote, by written notice to the commissioner, designate
28 the banks or trust companies in which all moneys of the city shall
29 be deposited, and may by like notice in writing from time to time
30 change the banks and trust companies thus designated.

31 2. a. Except as provided in paragraph b of this subdivision,
32 no bank or trust company shall be designated pursuant to this
33 section unless:

1 (1) it shall agree to pay into the city treasury interest or to
2 provide the city with equivalent value on the daily balances at a
3 rate which the banking commission shall [, by a majority vote, fix
4 quarterly on the first day of February, May, August, and November
5 in each year,] negotiate according to the current rate of interest
6 upon like balances deposited in banks and trust companies in the
7 city by private persons or corporations;

8 (2) it shall file with the banking commission and city clerk a
9 certificate signed by the president or other duly authorized
10 officer of such bank setting forth that its board of directors has
11 established and will adhere to a policy of hiring and promotion of
12 employees and officers without regard to sex, race, color, [creed]
13 religion, religious affiliation, [sex,] national origin,
14 disability, age, marital status, or sexual orientation, which
15 certificate shall further set forth affirmatively the steps taken
16 by the bank or trust company to implement said policy; and

17 (3) it does not provide the following services, either directly
18 or through a subsidiary or agent, to the government of the Republic
19 of South Africa: (a) advertising or otherwise promoting the sale,
20 outside of the Republic of South Africa or Namibia, of krugerrands
21 or other coins minted in the Republic of South Africa or Namibia,
22 (b) underwriting securities of the government of the Republic of
23 South Africa, or (c) making loans to such government, other than
24 loans for educational, housing or health facilities available to
25 all persons on a totally nondiscriminatory basis and located in
26 geographic areas accessible to all population groups without any
27 legal or administrative restrictions.

28 b. The commission may designate a bank or trust company which
29 does not meet the criteria set forth in clause three of paragraph
30 a of this subdivision upon a determination, made in writing and
31 forwarded to the council, that deposit of city moneys in such bank
32 or trust company is necessary to obtain essential services which
33 are not reasonably obtainable from another bank or trust company.
34 If the banking commission by majority vote shall decide that such

1 policy not to discriminate or provide services to the government
2 of the Republic of South Africa has been violated after giving the
3 bank or trust company an opportunity to be heard, then upon giving
4 thirty days' notice to the bank or trust company such designation
5 may be revoked.

6 3. The commissioner may, with the approval of the comptroller,
7 make time deposits of city moneys, for a period not to exceed six
8 months, in any bank or trust company designated for deposit of city
9 funds. Each such bank or trust company shall before deposits are
10 made, other than such as are of a temporary character and
11 specifically relate to the current business of the city, execute
12 and file with the commissioner a bond to the city in such form and
13 in such amount as may be prescribed and approved by the
14 commissioner and the comptroller for the safekeeping and prompt
15 payment of city moneys on demand with interest at the rate agreed
16 upon and, as security for such funds, shall deposit with the
17 comptroller outstanding unmatured obligations [the value of which
18 at the existing prices on the open market shall be equal to the
19 estimated amount of the proposed deposit, for which the comptroller
20 shall deliver a certificate of deposit containing the condition of
21 such bond] of the United States of America, or any obligation fully
22 guaranteed or insured as to interest and principal by the United
23 States of America acting through an agency, subdivision, department
24 or division thereof, obligations of the state of New York or
25 obligations of the city of New York, the value of which at the
26 existing prices on the open market shall be equal to the estimated
27 amount of the proposed deposit, for which the comptroller shall
28 deliver a certificate of deposit containing the condition of such
29 bond.

30 4. On the withdrawal of all or a part of the funds deposited in
31 any depository and a closing or depleting of the account thereof,
32 or in the event of the deposit actually made being less than
33 estimated amount of such deposit, the commissioner and the
34 comptroller shall certify to such settlement or depletion or

1 difference and direct the surrender of the whole or a proportionate
2 share of the securities so deposited to the owner or owners
3 thereof.

4 Sec. 1525. City register. 1. There shall be within the
5 department a city register who shall be appointed by the mayor.

6 2. The functions, powers and duties formerly exercised by
7 the registers or registrars of the several counties shall remain
8 with the city register.

9 Sec. 1527. Contracts with collection agencies. 1.
10 Notwithstanding any other provisions of law to the contrary, the
11 commissioner may enter into contracts with collection agencies
12 for the collection of (i) any or all tax warrants and judgments
13 for all city taxes subject to collection by the department, other
14 than real property taxes, or (ii) city water and sewer charges, or
15 both, provided however, that any such contract shall be subject to
16 the provisions of [section] sections three hundred forty-two and
17 three hundred forty-three of this charter.

18 2. Any such contract shall apply only to such tax warrants and
19 judgments and to such water and sewer charges as the commissioner
20 may refer to the collection agency, and shall be terminable at the
21 will of the commissioner.

22 3. The consideration to be paid to such collection agency may
23 be a percentage or percentages of the amount collected by such
24 agency, or as otherwise provided in the contract, but shall be
25 within the amount appropriated and available for such purpose.

26 4. No legal action to collect tax warrants and judgments or
27 water and sewer charges under any contract entered into pursuant
28 to this section shall be initiated without the express written
29 permission of the corporation counsel, and the selection of any
30 attorney to take such legal action shall be subject to the approval
31 of the corporation counsel.

32 5. Before beginning performance of a contract authorized by
33 subdivision one of this section, the contracting collection
34 agency shall give security for faithful performance and shall

1 provide such insurance policies, including but not limited to a
2 comprehensive general liability insurance, naming the city as a
3 party in interest, as the [board of estimate] commissioner may
4 require. The adequacy and sufficiency of such security and
5 insurance policies, as well as the justification and
6 acknowledgement thereof, shall be subject to the approval of the
7 comptroller. The commissioner, in his or her discretion, may
8 require additional security or insurance in such amounts and
9 running to such city officers and employees as the commissioner may
10 require, to indemnify them for any liability incurred by reason of
11 any act or omission of such collection agency.

12 6. No contract entered into pursuant to this section may be so
13 worded as to grant to any contracting collection agency the
14 exclusive right to perform any work authorized by this section.
15

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,] facilities; the [acquisition and disposal] procurement of goods and other personal property[,]; the disposition of surplus property; the provision to city agencies of services other than personal services[,]; the acquisition, disposition and management[, sale or lease] by the city of real property other than housing[,]; the provision of automotive, communication, energy, and data processing services, [the provision, regulation and control of electrical activities and similar services,] including without limitation[, the following]:

1. Public buildings and [structures] facilities. With respect to public buildings and [structures] facilities, 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] facilities paid for in whole or in part from the city treasury;

(b) to manage, alter, repair, operate, maintain and clean buildings, [structures] facilities 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

1 in whole or in part from the city treasury, and as directed by the
2 mayor, to perform services in space occupied for public use by a
3 single city agency;

4 (c) except for the provisions of chapter nine of this charter,
5 to employ, when in the commissioner's opinion such services are
6 necessary or desirable, [subject to the approval of the mayor and
7 in accordance with the provisions of section three hundred
8 forty-nine of this charter,] qualified consultants in private
9 practice to aid the commissioner in carrying out his duties and
10 responsibilities with respect to public building or [structures]
11 facilities; such consulting or advisory services shall be performed
12 under the supervision of the commissioner;

13 (d) to consult with the agencies for whose use the buildings
14 or structures are intended in preparing and considering plans and
15 specifications and in carrying out such plans and specifications,
16 and to consider any recommendations made by such agency.

17 Notwithstanding the provisions of this subdivision one, the
18 exercise of the powers and duties set forth herein shall be subject
19 to the jurisdiction of any city agency performing urban renewal and
20 public and publicly-aided housing functions to the extent, and in
21 such areas, as directed by the mayor;

22 (e) to exercise and perform such other powers and duties as
23 may be prescribed by law or delegated to him in relation to
24 laboratory testing of commodities and construction materials.

25 2. [Supply services] Procurement of goods, other personal
26 property and services. With respect to the procurement and
27 disposal of goods and other personal property and the procurement
28 of services other than personal services, the commissioner shall
29 have the following powers and duties:

30 (a) [the power] to purchase, inspect, store and distribute all
31 goods, supplies, materials [or], equipment and other personal
32 property required by any city agency, except as otherwise provided
33 by law, or by any office of any county wholly included in the city
34 for which supplies, materials or equipment are required, payment

1 for which is made from the city treasury;

2 (b) to establish and maintain one or more city storehouses, [to
3 operate] operating therein a [uniform,] modern system of stores
4 control [based upon perpetual inventory and maintain a sufficient
5 stock of staple commodities on hand], to supply the estimated
6 current needs of the agencies for which the commissioner is
7 authorized to purchase. All purchases other than such purchases
8 for stock for estimated needs and all deliveries from such stock
9 shall be upon justified requisitions. The commissioner shall also
10 oversee the establishment of efficient and economical systems of
11 stores control in other city agencies and review the operations of
12 such storehouses to assure their efficient and economical
13 management;

14 (c) to receive all [old or waste material and other] surplus
15 and obsolete personal property [discarded, replaced or] not
16 required [in storehouses or] by any agency for which the
17 commissioner has the power to make purchases and all such agencies
18 shall surrender such property to the commissioner who shall dispose
19 thereof pursuant to rules [and regulations] promulgated by him
20 governing its redistribution, exchange, transfer, sale or other
21 disposition;

22 (d) to procure, supply and manage contractual services other
23 than personal or professional services for the use of city
24 agencies;

25 (e) to promulgate [and codify] rules [and regulations]
26 governing the purchase, payment, storage, and delivery of goods,
27 supplies, materials and equipment by agencies of the city and the
28 disposal of [unusable] surplus and obsolete materials, and to
29 supervise their enforcement;

30 (f) to classify all goods, supplies, materials and equipment;
31 to adopt as standards the minimum number of qualities, sizes and
32 types of commodities consistent with efficient operation and life
33 cycle costs; and to promulgate and enforce written specifications
34 for all such standard commodities.

1 3. Real property. With respect to real property, the
2 commissioner shall have the following powers and duties:

3 (a) [to exercise and perform the powers and duties imposed
4 by law upon the board of estimate relating to the acquisition,
5 selling, leasing, exchanging or otherwise disposing of real
6 property of the city and the assignment to city agencies of space
7 owned or leased by the city. The commissioner shall also
8 undertake] to purchase, lease, condemn or otherwise acquire real
9 property for the city, subject to the approval of the mayor, and
10 to sell, lease, exchange or otherwise dispose of real property of
11 the city, subject to the requirements of section three hundred
12 eighty-four and subject to review and approval either pursuant to
13 section one hundred ninety-five, if applicable, or pursuant to
14 sections one hundred ninety-seven-c and one hundred ninety-seven-
15 d. No such purchase, lease, condemnation or other acquisition
16 shall be authorized until a public hearing has been held with
17 respect to such acquisition after the publishing of notice in the
18 City Record at least ten days but not more than thirty days in
19 advance of such hearing; provided, however, that in the case of an
20 acquisition by purchase or condemnation, no such hearing shall be
21 required if a public hearing is held with respect to such purchase
22 or condemnation pursuant to any other requirement of law. In the
23 case of a lease in which the city is to be the tenant, the notice
24 for the hearing required in this subdivision shall include a
25 statement of the location and proposed use of the premises, and the
26 term and annual rent of the proposed lease. Before submitting an
27 application pursuant to section one hundred ninety-seven-c for an
28 acquisition or a disposition pursuant to this section, the
29 commissioner shall take into consideration the criteria for site
30 selection established pursuant to section two hundred three. If
31 two years, not including time spent in litigation, have elapsed
32 between (1) the final approval of a disposition or acquisition
33 pursuant to section one hundred ninety-seven-c and section one
34 hundred ninety-seven-d and (2) execution of an agreement in

1 connection with such disposition or acquisition, a public hearing
2 shall be held on the proposed acquisition or disposition after the
3 publishing of notice in the City Record at least forty-five days
4 in advance of such hearing;

5 (b) to assign and reallocate to city agencies space and real
6 property owned or leased by the city, to establish comprehensive
7 and continuing programs [to manage] and standards for utilization
8 of space owned or leased by the city and to [establish standards,]
9 conduct surveys of space utilization [and assign space to all city
10 agencies except as otherwise provided by law];

11 [(b)] (c) to manage [and superintend] all real property of the
12 city not used for public purposes, including real property acquired
13 for a public purpose and not being currently utilized for such
14 purpose, [but the commissioner shall not manage and superintend]
15 except wharf property, real property under the jurisdiction of the
16 department of housing preservation and development, [real property
17 under the jurisdiction of] the New York city transit authority,
18 [real property under the jurisdiction of] and the New York city
19 housing authority by virtue of an authorization granted by the
20 mayor pursuant to the provisions of subdivision three of section
21 one hundred twenty-five of the public housing law, or except as
22 otherwise provided by law, real property under the jurisdiction of
23 the triborough bridge and tunnel authority;

24 [(c)] (d) to exercise and perform such other powers and duties
25 as may be prescribed by law or delegated to [him] the commissioner
26 in relation to the acquisition, disposition, management, site
27 selection, assignment, demolition or other treatment of real
28 property of the city;

29 [(d)] (e) to employ, where desirable, managing agents to manage
30 city properties and collect rents therefrom and pay bills[,
31 pursuant to rules and regulations promulgated by him and approved
32 by the board of estimate.];

33 (f) to keep, maintain and annually update a master list of
34 leases wherein the city or its agencies is a tenant. Such master

1 list shall contain at least the following information: name and
2 address of lessor, location wherein lease property is situated,
3 base rent, square footage, escalation provisions, and any other
4 information which the department deems necessary and appropriate.

5 4. Communications and Energy. With respect to communications
6 [facilities] and energy, the commissioner shall have the following
7 powers and duties:

8 (a) WNYC Communications Group: to maintain, operate and
9 administer in conformance with all federal, state and local laws
10 and to use the facilities of such group [in order] to assist any
11 agency which shall require and use such service and also for the
12 instruction, enlightenment, entertainment, recreation and welfare
13 of the inhabitants of the city by the broadcast of any matters
14 which are deemed appropriate and necessary for the public interest
15 and advantage and to connect such facilities with any broadcasting
16 station to unite in the broadcasting of such matters and
17 activities;

18 (b) Communication facilities: except for emergency or other
19 special communication facilities, to provide to city agencies such
20 telephone, radio, television or other communications facilities as
21 they may require for the effective discharge of their
22 responsibilities;

23 (c)[City Record: (i) There shall be published daily, except
24 Saturdays, Sundays and legal holidays, under contract or by the
25 department, a paper to be known as the City Record;

26 (ii) there shall be inserted in the City Record nothing aside
27 from such official matters as are expressly authorized;

28 (iii) all advertising required to be done for the city, except
29 as otherwise provided by law, shall be inserted at the public
30 expense in the City Record and a publication therein shall be
31 sufficient compliance with any law requiring publication of such
32 matters or notices;

33 (iv) nothing herein contained shall prevent the publication
34 elsewhere of any advertisement required by law to be so published;

1 provided, however, that no such publication shall be made unless
2 the same is authorized by the commissioner with the approval of the
3 mayor and the comptroller and in a newspaper, magazine, journal or
4 periodical designated by the commissioner with the approval of the
5 mayor and the comptroller;

6 (v) the comptroller shall cause a continuous series of the City
7 Record to be bound as completed quarterly and to be deposited with
8 his certificate thereon in the office of the city register, in the
9 county clerk's office of each county and in the office of the city
10 clerk; and copies of the contents of any part of the same,
11 certified by such register, county clerk or city clerk, shall be
12 received in judicial proceedings as prima facie evidence of the
13 truth of the contents thereof;]

14 Gas and electricity: to have charge and control of furnishing
15 the city or any part thereof, by contract or otherwise, with gas,
16 electricity, steam, hot water or other energy source, except such
17 functions as are exercised by the public utility service of the
18 city.

19 5. Data processing services. The commissioner shall [operate
20 one or more data processing service centers providing] provide data
21 processing [equipment] support, programming [services], and
22 computer systems analysis services for city agencies when necessary
23 or desirable, in accordance with executive orders promulgated by
24 the mayor.

25 6. [Gas and electricity. With respect to gas and electricity,
26 the commissioner shall have charge and control of furnishing the
27 city or any part thereof, by contract or otherwise, with gas,
28 electricity or any other illuminant or steam; except such functions
29 as are exercised by the public utility service of the city.]

30 [7.] Automotive services. [To] The commissioner shall acquire
31 by purchase, lease or otherwise, vehicles and other automotive
32 equipment for the use of city agencies; [to] manage, maintain,
33 store and operate a fleet of motor vehicles; [to] assign [such
34 fleet] fleets to agencies in accordance with the direction of the

1 mayor and [to operate] ensure the effective operation of all shops,
2 yards, garages, fuel depots and other facilities required for the
3 [effective and economical use and maintenance of such fleet]
4 maintenance of fleets operated by agencies; and ensure the
5 maintenance of records for all city-owned vehicles.

6 Sec. 1603. Right of entry. The commissioner, officers and
7 employees of the department may, in accordance with law, enter upon
8 public or private property for the purpose of making surveys,
9 borings or other investigations necessary for the exercise of the
10 powers or the performance of the duties of the commissioner and the
11 department. Refusal to permit such entry shall be a misdemeanor
12 punishable by not more than thirty days' imprisonment or by a fine
13 of not more than fifty dollars, or both.

14 [Sec. 1604. Maintenance of master list of leases. The
15 department shall keep, maintain and annually update a master list
16 of leases wherein the city or its agencies is a tenant. Such master
17 list shall contain at least the following information: name and
18 address of lessor, location wherein lease property is situated,
19 base rent, square footage, escalation provisions, and any other
20 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 paragraphs (j), (k), (l) and (m) of subdivision [eight] ~~six~~ of section eighteen hundred two of this chapter.

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

1 with applicable provisions of law and the enforcement of those
2 provisions of the multiple dwelling law or any other law, rule or
3 regulation which relate to the maintenance, use, occupancy, safety
4 or sanitary condition of any building or portion thereof which is
5 occupied, arranged or intended to be occupied as a home, residence
6 or dwelling place;

7 2. such functions and duties as may be prescribed by law with
8 respect to the relocation of tenants of real property and the
9 selection of tenants for publicly owned or publicly aided housing
10 in the city;

11 3. all functions of the city, and all powers, rights and duties
12 as provided by any federal, state or local law or resolution,
13 relating to slum clearance, slum prevention and urban renewal;
14 neighborhood conservation; prevention and rehabilitation of
15 blighted, substandard, deteriorated or insanitary areas, and
16 publicly-aided and public housing, including the regulation of
17 rents in housing built with state or local financing, except
18 housing under the jurisdiction of the New York city housing
19 authority;

20 [4. all functions of the city relating to the control or
21 regulation of rentals pursuant to state or local rent control laws,
22 rules or regulations, including liaison with any body, such as, but
23 not limited to the conciliation and appeals board, the real estate
24 industry stabilization association and the rent guidelines board,
25 in which any rent regulation functions or powers are vested;]

26 [5]4. the functions, rights, powers and duties and the offices
27 granted to, vested in or delegated to the housing and redevelopment
28 board, the housing and development administration or the
29 administrator of the housing and development administration;

30 [6]5. such powers, rights and duties vested in or exercised by
31 the New York city housing authority as may be transferred to or
32 vested in the city;

33 [7]6. the functions, powers and duties to:

1 (a) establish and administer programs [including, but not
2 limited to, the municipal loan program, "mini" loan program and
3 participation loan program,] designed to encourage the
4 rehabilitation and preservation of existing housing;

5 (b) administer laws authorizing tax exemption or tax abatement,
6 or both, including, but not limited to, section 11-243 of the
7 administrative code of the city of New York and section four
8 hundred twenty-one of the real property tax law, which are in aid
9 of the construction, rehabilitation, alteration or improvement of
10 residential buildings and structures and the elimination of
11 substandard conditions therein, process applications for such
12 exemption or abatement or both, and coordinate the activities of
13 officers and agencies of the city relating thereto;

14 (c) manage and superintend all real property acquired by the
15 city for, or devoted to, housing or urban renewal purposes;

16 (d) represent the city in carrying out the provisions of the
17 private housing finance law including, but not limited to, article
18 two (relating to limited-profit housing companies), article five
19 (relating to redevelopment companies), article eight [(relating
20 to municipal loans)], article eight-a [(relating to "mini" loans)],
21 article eleven (relating to housing development fund companies) and
22 article fifteen [(relating to participation loans)], and act as and
23 exercise the powers, rights and duties vested in the "supervising
24 agency" pursuant to the private housing finance law;

25 (e) represent the city in carrying out the provisions of article
26 fifteen of the general municipal law ("urban renewal law")
27 including, but not limited to, acquiring, leasing or disposing of
28 real property pursuant to said law and establishing the disposition
29 price of real property in an urban renewal area;

30 (f) undertake projects and exercise the rights, powers and
31 privileges authorized by sections fifty-five and fifty-five-a of
32 the public housing law;

33 (g) impose and collect charges and fees for the financing,
34 regulation, supervision and audit of municipally-aided projects

1 and loan programs administered by the commissioner, which charges
2 and fees shall be set aside in a special account for administrative
3 expenses of the department;

4 (h) act as the coordinating agency with respect to the
5 activities of officers and agencies of the city concerning areas
6 designated by the planning commission or any analogous officer or
7 body, as districts for development or improvement of
8 neighborhoods;

9 (i) acquire real property, pursuant to the federal housing and
10 community development act of nineteen hundred seventy-four, on
11 behalf of other city agencies.

12 [8. On and after September first, nineteen hundred
13 seventy-eight.

14 (a) the powers and duties imposed by law upon the board of
15 estimate relating to the sale, lease, exchange or other
16 disposition] (j) sell, lease, exchange or otherwise dispose of
17 residential real property of the city, provided that no such sale,
18 lease, exchange or other disposition shall be authorized without
19 the approval of the mayor and until a public hearing has been held
20 with respect to such action after the publishing of notice in the
21 City Record at least thirty days in advance of such hearing, and
22 provided further that any disposition by public auction shall be
23 conducted by the department of general services, except as
24 otherwise provided by law;

25 [(b) management] (k) manage and [superintendence of] superintend
26 all residential real property of the city not used for public
27 purposes, including real property acquired for a public purpose and
28 not being currently utilized for such purpose, but not [management
29 and superintendence of] wharf property, real property under the
30 jurisdiction of the New York city transit authority, real property
31 under the jurisdiction of the New York city housing authority by
32 virtue of an authorization granted by the mayor pursuant to the
33 provisions of subdivision three of section one hundred twenty-five
34 of the public housing law, or real property under the jurisdiction

1 of the triborough bridge and tunnel authority;

2 [(c)] (1) exercise such other powers and duties as may be
3 prescribed by law in relation to the management, demolition or
4 sealing or other treatment of residential real property of the
5 city; and

6 [(d) employment of] (m) employ professional, community and other
7 personnel to manage residential real property of the city.

8 Sec. 1803. Inspectors, inspection. 1. Housing maintenance
9 inspectors shall have such qualifications as shall be prescribed
10 by the department of personnel after consultation with the
11 commissioner.

12 2. The commissioner or any inspector or any officer of the
13 department authorized in writing by the commissioner or the
14 commissioner's delegate may, in accordance with law, for the
15 purpose of performing their respective official duties, enter and
16 inspect any building, structure, enclosure, premises or any part
17 thereof, or anything therein or attached thereto, and any refusal
18 to permit such entry or inspection shall be a misdemeanor triable
19 in the criminal court and punishable upon conviction by not more
20 than thirty days imprisonment, or by a fine of not more than one
21 hundred dollars or both.

22 Sec. 1804. [Organization of the department; notice. In
23 January, nineteen hundred seventy-eight and every six months
24 thereafter, in accordance with the procedures of subdivision (b)
25 of section one thousand forty-three of this charter, the
26 commissioner shall cause to be published in the City Record and
27 shall give notice of a written plan or chart describing the
28 organization of the department.] Acquisitions of real property.
29 No purchase, lease, condemnation or other acquisition of real
30 property by the department shall be authorized until (1) a public
31 hearing has been held with respect to the acquisition after the
32 publishing of notice in the City Record at least thirty days in
33 advance of such hearing and (2) the department shall have received
34 the approval of the mayor; provided, however, that in the case of

1 an acquisition by purchase or condemnation, no such hearing shall
2 be required if a public hearing is held with respect to such
3 purchase or condemnation pursuant to any other requirement of law.
4 In the case of a lease in which the city is to be the tenant, the
5 notice for the hearing required in this subdivision shall include
6 a statement of the location and proposed use of the premises, and
7 the term and annual rent of the proposed lease.

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] borough presidents, 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

1 affairs, and the commissioner of parks and recreation, who shall
2 serve as ex-officio members. The members of the advisory
3 commission shall serve without compensation.

4 2. a. Members other than ex-officio members shall be
5 appointed by the mayor for a term of three years and provided that
6 of those members first taking office one-third shall serve for one
7 year, one-third shall serve for two years and the remainder shall
8 serve for three years. Notwithstanding the date of appointment,
9 the terms of members first taking office shall be deemed to
10 commence on the effective date of this chapter.

11 b. The mayor shall designate one of the members of the
12 commission to be chairman and one to be vice-chairman.

13 3. The commission shall advise the commissioner and the mayor
14 with respect to cultural activities in the city and in furtherance
15 of this function shall:

16 a. formulate and recommend goals with regard to cultural
17 activities and policy;

18 b. foster coordination among city, state and federal agencies
19 and other organizations and institutions with respect to cultural
20 activities;

21 c. compile data and reports and submit its findings to the
22 commissioner and the mayor; and

23 d. perform such other related functions and duties which may,
24 from time to time, be deemed appropriate by the mayor.

25 4. All city agencies are directed to cooperate with the
26 commission, consistent with the law, in order to coordinate and
27 promote cultural activities in this city.

CHAPTER 68

CONFLICTS OF INTEREST

(excerpts: Revisions of Sec. 2602 and New Paragraph Added to Sec. 2604(b))

Sec. 2602. Conflicts of interest board. a. There shall be a conflicts of interest board consisting of [three] five 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 three 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, and of the remaining members, 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] The three initial nominations by the mayor shall be made by the first day of February, nineteen

1 hundred eighty-nine, and both later nominations by the mayor shall
2 be made by the first day of March, nineteen hundred ninety.

3 d. Members shall receive a per diem compensation, no less
4 than the highest amount paid to an official appointed to a board
5 or commission with the advice and consent of the council and
6 compensated on a per diem basis, for each calendar day when
7 performing the work of the board.

8 e. Members of the board shall serve until their successors
9 have been confirmed. Any vacancy occurring other than by
10 expiration of a term shall be filled by nomination by the mayor
11 made to the council within sixty days of the creation of the
12 vacancy, for the unexpired portion of the term of the member
13 succeeded. If the council fails to act within forty-five days of
14 receipt of such nomination from the mayor, the nomination shall be
15 deemed to be confirmed.

16 f. Members may be removed by the mayor for substantial
17 neglect of duty, gross misconduct in office, inability to discharge
18 the powers or duties of office or violation of this section, after
19 written notice and opportunity for a reply.

20 g. The board shall appoint a counsel to serve at its pleasure
21 and shall employ or retain such other officers, employees and
22 consultants as are necessary to exercise its powers and fulfill its
23 obligations. The authority of the counsel shall be defined in
24 writing, provided that neither the counsel, nor any other officer,
25 employee or consultant of the board shall be authorized to issue
26 advisory opinions, promulgate rules, issue subpoenas, issue final
27 determinations of violations of this chapter, or make final
28 recommendations of or impose penalties. The board may delegate its
29 authority to issue advisory opinions to the chair.

30 h. The board shall meet at least once a month and at such
31 other times as the chair may deem necessary. Two members of the
32 board shall constitute a quorum and all acts of the board shall be
33 by the affirmative vote of at least two members of the board.

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Sec. 2604. Prohibited interests and conduct

b. Prohibited Conduct.

15. No elected official, deputy mayor, deputy to a citywide or boroughwide elected official, head of an agency, or other public servant who is charged with substantial policy discretion as defined by rule of the board may be a member of the national or state committee of a political party, serve as an assembly district leader of a political party or serve as the chair or as an officer of the county committee or county executive committee of a political party, except that a member of the City Council may serve as an Assembly district leader or any lesser political office as defined by rule of the board.

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] Lie within the boundaries of a single borough, except as provided in subdivisions d and e of this section, and coincide with historic, geographic and identifiable communities from which the city has developed;

(2) Be suitable for the efficient and effective delivery of those services [by] of municipal agencies required 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.

1 [c]b. Community districts shall be as nearly equal in
2 population with each other as is possible under the criteria in
3 paragraphs one, two and three of [subsection b] subdivision a of
4 this section.

5 [d. The community districts may serve as the basis for city
6 council districts for the election of council members pursuant to
7 section twenty-two and other applicable law.

8 e]c. With respect to the city's central business district in
9 the borough of Manhattan from fifty-ninth street south, the [board
10 of estimate] council may adopt as part of the community district
11 map, districts which shall reflect its unique character as the
12 city's financial, business and entertainment center. In so doing,
13 the [board of estimate] council shall take into consideration the
14 residential, working and other daytime populations as well as the
15 hotel and transient or other nighttime populations and adhere as
16 nearly as possible to the provisions of paragraph (3) of
17 subdivision [b] a of this section.

18 [f]d. The community district map for the borough of Manhattan
19 shall include Roosevelt Island, located in the east river, as part
20 of a community district in the borough of Manhattan, immediately
21 opposite and to the west of Roosevelt Island. However, for the
22 purposes of meeting the requirements of section twenty-seven
23 hundred four relating to coterminality of local services, section
24 twenty-seven hundred five relating to district service cabinets and
25 section twenty-seven hundred seven relating to agency budget and
26 service statements, Roosevelt Island shall be deemed included
27 within a community district of the borough of Queens immediately
28 opposite and to the east of Roosevelt Island. The chairperson of
29 the community board of the Manhattan community district which
30 includes Roosevelt Island, or his designee, shall be a member of
31 the district service cabinet of each of the community districts in
32 which Roosevelt Island is included in the respective boroughs.

33 e. The community district map for the borough of the Bronx shall
34 include that portion of the borough of Manhattan which lies north

1 of the Harlem River.

2 Sec. 2702. Preparation and adoption of map. a. The map of
3 community districts in effect as of the seventh day of November of
4 nineteen hundred eighty nine shall be continued until modified
5 pursuant to this section. Not later than the first day of
6 October[,] of nineteen hundred [seventy-six] ninety-three and of
7 every tenth year thereafter, the mayor shall, and at such other
8 times as the mayor deems appropriate, the mayor may, prepare and
9 present to the [board of estimate] council a [preliminary] report
10 reviewing the community district map [pursuant to this chapter]
11 then in force and presenting such recommendations for changes in
12 the map as the mayor deems appropriate. Such review shall consider
13 shifts in population shown in the most recent decennial census that
14 may require adjustments in the community district map to conform
15 to the criteria in section twenty-seven hundred one. Such review
16 shall also consider whether reducing the size of any community
17 district would provide more efficient and effective service
18 delivery within the district or districts involved. If the mayor's
19 recommendations for changes in the map would produce a community
20 district with a population below seventy-five thousand persons, the
21 mayor may consider whether partial suspension of coterminality
22 within the district is likely to provide more efficient or
23 effective service delivery of one or more of the services for which
24 coterminality is required, and may recommend that coterminality for
25 one or more designated services within the community district and
26 any adjacent district be suspended. The mayor's recommendations for
27 changes shall be referred to as the preliminary revision of the
28 community district map.

29 b. The borough presidents, city planning commission, community
30 boards and other civic, community and neighborhood groups and
31 associations shall be consulted and their recommendations
32 considered in the preparation of the preliminary revision of the
33 community district map.

1 c. The mayor shall publish the preliminary revision of the
2 community district map in the City Record and in each [county]
3 borough of the city and shall, jointly with the borough president,
4 conduct one or more public hearings on it in each borough of the
5 city. Within sixty days after the last such hearing, the mayor
6 shall submit to the council such preliminary revisions of the
7 community district map as he or she deems appropriate.

8 d. The [board of estimate] council shall conduct public
9 hearings on the preliminary revision of the community district map
10 submitted by the mayor and it shall, by resolution, within one
11 hundred twenty days of such submission, adopt, adopt with
12 modifications, or disapprove the map as submitted [or as modified
13 by it not later than the date specified in subsection a of section
14 twenty-seven hundred one]. If the council adopts the proposed map
15 without modifications, or if the mayor concurs in any modifications
16 adopted by the council, the new map shall be effective as of the
17 date specified in the mayor's proposal or in the modifications
18 adopted by the council and concurred in by the mayor. If the
19 council disapproves the map as submitted by the mayor, or if the
20 council fails to act within the one hundred twenty day period, or
21 if the mayor does not concur in any modifications adopted by the
22 council, the community district map then in force shall remain in
23 effect.

24 [Sec. 2703. Modification and review. a. The community
25 district map shall be reviewed within one year following the
26 publication of each decennial census, and a new or revised
27 community district map may be adopted pursuant to the criteria and
28 procedures applicable to the creation of community districts
29 pursuant to of sections twenty-seven hundred one and of
30 twenty-seven hundred two. Such review shall consider shifts in
31 population shown in the new census that may require adjustments in
32 the community district map to conform to the criteria in section
33 twenty-seven hundred one.

1 b. The board of estimate, after public hearing on notice and
2 consideration of any recommendation from the mayor, at any time may
3 modify the community district map to assure conformance to the
4 criteria in section twenty-seven hundred one.]

5 Sec. 2704. Coterminality of local services. a. [Within three
6 years after the effective date of the community district map
7 adopted pursuant to this chapter, the] The head of each agency
8 responsible for one or more of the services listed below shall
9 organize the local service delivery districts of such agency as
10 follows.

11 (1) To be coterminous with each of the community districts [for]:
12 local parks services; local recreation services; street cleaning
13 and refuse collection services; the patrol services of the police
14 department; and social services, including community services,
15 community development, youth services, child development, and
16 special services for children; and,

17 (2) To be coterminous with one or more community districts or
18 aggregates of them [for]: housing code enforcement, highway and
19 street maintenance and repair; sewer maintenance and repair, and
20 health services, other than municipal hospitals.

21 b. [Not later than the first day of January, nineteen hundred
22 eighty-three the commissioner of the department of parks and
23 recreation shall organize the department's service districts for
24 local recreation services to be coterminous with each of the
25 community districts.]

26 c. No later than the first day of January, nineteen hundred
27 eighty-three, the police commissioner shall organize the patrol
28 services of the police department in the boroughs of the Bronx,
29 Manhattan, Queens and Staten Island to be coterminous with each of
30 the community districts in such boroughs. Not later than the first
31 day of April, nineteen hundred eighty-four, the police commissioner
32 shall organize the patrol services of the police department in the
33 borough of Brooklyn to be coterminous with each of the community
34 districts in that borough.] Notwithstanding the provisions of

1 [this] subdivision a, the requirement that patrol services of the
2 police department be coterminous with each of the community
3 districts in any borough shall not apply to any community district
4 where the mayor, after consultation with the police commissioner,
5 shall determine that establishment of such coterminality would be
6 inconsistent with the most effective delivery of such services. The
7 mayor shall promptly notify the council of any such determination,
8 and the council may, by majority vote, disapprove such
9 determination with respect to any community district within sixty
10 days after the first stated meeting of the council following the
11 receipt of such notice. If the council shall disapprove such
12 determination with respect to any community district, the police
13 commissioner shall organize patrol services to be coterminous with
14 such district within ninety days of such disapproval.

15 [d] c. The [board of estimate, upon the recommendation] council,
16 by resolution subject to the approval of the mayor, or the mayor
17 by executive order, may direct that city services in addition to
18 those specified [pursuant to subsection] in subdivision a of this
19 section be made coterminous with one or more community districts
20 or aggregates of them.

21 [e] d. The head of each agency whose local service delivery
22 districts are not required to be coterminous with community
23 districts pursuant to [subsection] subdivision a or [b] c of this
24 section shall organize the local service delivery districts of the
25 agency to coincide as closely as possible to the boundaries of the
26 community districts.

27 [f] e. For purposes of this section, coterminality of services
28 shall mean that

29 [(1)] the boundaries of the local service districts of each
30 [designated] agency service listed in subdivision a or required to
31 be made coterminous pursuant to subdivision c shall coincide with
32 the boundaries of community districts[, and].

33 f. [(2)the] The head of each [designated] agency responsible
34 for one or more of the services listed in subdivision a or required

1 to be made coterminous pursuant to subdivision c shall: (1) assign
2 to each such local service district at least one official with
3 managerial responsibilities involving the exercise of independent
4 judgment in the scheduling, allocation and assignment of personnel
5 and equipment and the evaluation of performance or the management
6 and planning of programs [. Each]; each such official shall have
7 operating or line authority over agency programs, personnel and
8 facilities within the local service district; (2) assign to each
9 borough at least one borough commissioner, or official with an
10 equivalent title, who shall have line authority over agency
11 programs, personnel and facilities within the borough related to
12 such services; such official shall consult regularly with the
13 borough president and shall be a member of the borough service
14 cabinet established pursuant to section twenty-seven hundred six
15 of the charter; and (3) publish semi-annually in the City Record
16 and make available to interested parties a list, by community
17 district and borough, of the name, title, office mailing address,
18 and office telephone number of the officials appointed pursuant to
19 paragraphs one and two of this subdivision and to subdivision a of
20 section twenty-seven hundred six.

21 g. The head of any agency may assign or reallocate personnel,
22 equipment or other resources outside a community district to meet
23 emergency needs, special situations, or temporary conditions.

24 h. Nothing in this chapter shall prohibit any agency from
25 maintaining sub-districts within a community district for purposes
26 of efficient and effective service delivery so long as the combined
27 sub-districts shall coincide with the boundaries of the community
28 district. Nothing contained in this section shall prevent the
29 establishment of any special district authorized pursuant to
30 federal, state or local law, the boundaries of which do not
31 coincide with the boundaries of a community district.

32 i. [Whenever the population of a community district falls below
33 seventy-five thousand persons, the city planning commission may
34 consider whether partial suspension of coterminality within the

1 district is likely to provide more efficient or effective service
2 delivery of one or more of the services for which coterminality is
3 required. The city planning commission shall give notice to all the
4 affected community districts and shall hold a public hearing.
5 Following the hearing, the commission may recommend to the board
6 of estimate that coterminality for one or more designated services
7 within the community district and any adjacent district be
8 suspended. If the board of estimate votes to approve the
9 recommendation, coterminality shall be suspended for the designated
10 services. The city planning commission may at any time recommend
11 to the board of estimate that the suspension be terminated and that
12 coterminality be restored for one or more of the services.] Each
13 borough president may publish an annual report evaluating the
14 delivery, within the borough, of the services which are listed in
15 subdivision a, or are required to be made coterminous pursuant to
16 subdivision c, of this section.

17 j. On or before the first day of December of nineteen hundred
18 ninety, the mayor shall appoint a task force on service delivery,
19 consisting of no more than ten members, to review the requirements
20 of subdivisions a, c and f of this section. Such task force shall
21 include members appointed upon the recommendation of the council,
22 comptroller, president of the council and borough presidents. The
23 membership of the task force shall include, but not be limited to,
24 community board members, district managers, and representatives of
25 the agencies subject to the requirements of this section. On or
26 before the first day of December of nineteen hundred ninety two,
27 the task force shall submit a report to the mayor and council
28 summarizing its conclusions and presenting such recommendations
29 for changes in the list of services made coterminous pursuant to
30 subdivisions a or c, and in the requirements for such services
31 contained in subdivision f, as the task force deems appropriate.

32 k. The mayor shall report biennially to the council on the
33 implementation of the requirements of this section. Such report
34 shall include: (1) an evaluation of the quality of the services

1 delivered to community districts pursuant to subdivisions a and c
2 of this section during the preceding two fiscal years, (2) a review
3 of the agencies' implementation of subdivisions d and f of this
4 section, and of subdivision a of section twenty-seven hundred six,
5 and (3) any recommendations for changes in the services listed or
6 in the requirements for those services which the mayor deems
7 appropriate.

8 Sec. 2705. District service cabinet. a. There shall be a
9 district service cabinet within each community district established
10 pursuant to this chapter. The members of the district service
11 cabinet shall include:

12 (1) The agency officials designated pursuant to [subsection d]
13 paragraph one of subdivision f of section twenty-seven hundred
14 four;

15 (2) Representatives of other agencies that provide local
16 services on a regular basis in the community district, who shall
17 be the ranking line official assigned to the district;

18 (3) Each council member whose district comprises all or part
19 of the community district;

20 (4) A representative of the department of city planning
21 designated by the director of city planning;

22 (5) The district manager appointed pursuant to [subsection]
23 subdivision f of section twenty-eight hundred; and,

24 (6) The chairperson of the community board for the community
25 district or his representative.

26 b. Each district service cabinet shall:

27 (1) Coordinate service functions and programs of the agencies
28 that deliver services in the community district;

29 (2) Consider interagency problems and impediments to the
30 effective and economic delivery of services in the district;

31 (3) Plan and recommend joint programs to meet the needs and
32 priorities of community districts and their residents; and

33 (4) Consult with residents of the community district and their
34 representatives about local service problems and activities;

1 (5) Keep a public record of its activities and transactions,
2 including minutes of its meetings.

3 Sec. 2706. Borough agency managers and borough service
4 cabinets. a. The head of each agency delivering services in the
5 boroughs [so far as is practicable] shall designate [a] one or more
6 senior [official] officials of the agency with line authority as
7 borough [representative] representatives of the agency with such
8 coordinative or other duties and responsibilities as the head of
9 the agency may specify in a written statement filed in the agency
10 and with the director of operations and the appropriate borough
11 president.

12 b. There shall be a borough service cabinet within each borough
13 whose members shall include the borough representatives designated
14 pursuant to [subsection] subdivision a of this section and the
15 borough president, who shall be the chairperson. Each borough
16 service cabinet shall:

17 (1) Coordinate at the borough level service delivery functions
18 and programs of agencies that provide services in the borough;

19 (2) Consider interagency problems and impediments to the
20 effective and economic delivery of services in the borough;

21 (3) Plan and develop programs addressed to the needs and
22 priorities of the borough and its residents; and

23 (4) Consult with residents of the borough and representatives
24 of the community boards about service problems and activities.

25 (5) Keep a public record of its activities and transactions,
26 including minutes of its meetings.

27 Sec. 2707. Agency budgets and service statements. a. Each
28 agency with service districts within the community districts and
29 boroughs shall prepare annually a statement of its service
30 objectives, priorities, programs and projected activities within
31 each community district and each borough for the new fiscal year,
32 if requested by the respective community board or borough board.

33 b. In preparing such statements for community districts the
34 agencies shall consult with the respective district service

1 cabinets and community boards. In preparing such statements for
2 the borough, the agencies shall consult with the borough service
3 cabinet and borough board. The statements shall be filed no later
4 than August fifteenth with the mayor, [board of estimate,] council,
5 borough president, community board [or] and borough board.

6 c. By no later than [~~three~~]four months after the end of the
7 fiscal year, each agency with service districts within the
8 community districts [or] and boroughs shall report to the
9 respective community and borough boards the amount of expenditures
10 within each service district for each unit of appropriation for the
11 preceding year.

12 Sec. 2708. Agency information. Each agency with service
13 districts within the community districts and boroughs shall make
14 available to each community board and borough board and to the
15 respective borough presidents current information on its operations
16 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, at least 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. The number of members appointed on the nomination of each such council member shall be proportional to the share of the district population represented by such council member. The city planning commission, after each council redistricting pursuant to chapter two-A, and after each community redistricting pursuant to section twenty-seven hundred two, shall determine the proportion of the community district's population represented by each council member. Copies of such determinations shall be filed with the appropriate borough president, community board, and council member. One-half of the members [first] appointed to any [new] community board shall serve for a term of [one year] two years [. The terms of all appointed members shall be calculated from] beginning on the first day of [January] April in [the] each odd-numbered year in which they take office and one half of the members appointed to any community board shall serve for a term of two years beginning on the first day of April in each even-numbered year in which they take office. Members shall serve until their successors are appointed but no member may serve for more than sixty days after the expiration of his or her original term unless reappointed by the borough president. 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

1 president shall assure adequate representation from the different
2 geographic sections and neighborhoods within the community
3 district. In making such appointments, the borough president shall
4 consider whether the aggregate of appointments fairly represents
5 all segments of the community. Community boards, civic groups and
6 other community groups and neighborhood associations may submit
7 nominations to the borough president and to council members.

8 b. An appointed member may be removed from a community board
9 for cause, which shall include substantial nonattendance at board
10 or committee meetings over a period of six months, by the borough
11 president or by a majority vote of the community board. Vacancies
12 among the appointed members shall be filled promptly upon the
13 occurrence of the vacancy by the borough president for the
14 remainder of the unexpired term in the same manner as regular
15 appointments.

16 c. Members of community boards shall serve as such without
17 compensation but shall be reimbursed for actual and necessary
18 out-of-pocket expenses in connection with attendance at regularly
19 scheduled meetings of the community board.

20 d. Each community board shall:

21 (1) Consider the needs of the district which it serves;

22 (2) Cooperate with, consult, assist and advise any public
23 officer, agency, local administrators of agencies, legislative
24 body, or the borough president with respect to any matter relating
25 to the welfare of the district and its residents;

26 (3) At its discretion hold public or private hearings or
27 investigations with respect to any matter relating to the welfare
28 of the district and its residents, but the board shall take action
29 only at a meeting open to the public;

30 (4) Assist city departments and agencies in communicating with
31 and transmitting information to the people of the district;

32 (5) Cooperate with the boards of other districts with respect
33 to matters of common concern;

1 (6) Render an annual report to the mayor, the council and the
2 borough board within three months of the end of each year and such
3 other reports to the mayor or the borough board as they shall
4 require (such reports or summaries thereof to be published in the
5 City Record);

6 (7) Elect its own officers; adopt, and make available for
7 reasonable public inspection, by-laws and statements of the duties
8 assigned by the board to its district manager and other
9 professional staff appointed pursuant to subdivision f of this
10 section; and keep a public record of its activities and
11 transactions, including minutes of its meetings, [and] majority and
12 minority reports, and all documents the board is required by law
13 to review, which shall be made available, in accordance with law,
14 to elected officials upon request and for reasonable public
15 inspection;

16 (8) Request the attendance of agency representatives at
17 meetings of the community board;

18 (9) Prepare comprehensive and special purpose plans for the
19 growth, improvement and development of the community district;

20 (10) Prepare and submit to the mayor, on or before a date
21 established by the mayor, an annual statement of community district
22 needs, including a brief description of the district, the board's
23 assessment of its current and probable future needs, and its
24 recommendations for programs, projects, or activities to meet those
25 needs;

26 [(10)][11] Consult with agencies on the capital needs of the
27 district, review departmental estimates, hold public hearings on
28 such needs and estimates and prepare and submit to the mayor
29 capital budget priorities for the next fiscal year and the three
30 succeeding fiscal years;

31 [(11)][12] Conduct public hearings and submit recommendations
32 and priorities to the mayor, [the board of estimate,] the council
33 and the city planning commission on the allocation and use within
34 the district of funds earmarked for community development

1 activities under city, state or federal programs;

2 [(12)](13) Consult with agencies on the program needs of the
3 community district to be funded from the expense budget, review
4 departmental estimates, hold public hearings on such needs and
5 estimates, and prepare and submit to the mayor expense budget
6 priorities for the next fiscal year;

7 [(13)](14) Assist in the planning of individual capital
8 projects funded in the capital budget to be located in the
9 community district and review scopes of projects and designs for
10 each capital project;

11 [(14)](15) Evaluate the progress of capital projects within the
12 community district based on status reports to be furnished to the
13 board;

14 (16) Be authorized to assign a representative to attend any
15 meeting held by a city agency to determine, in advance of drafting,
16 the form and content of any environmental impact statement required
17 by law for a proposal or application for a project in such board's
18 district;

19 [(15)](17) Exercise the initial review of applications and
20 proposals of public agencies and private entities for the use,
21 development or improvement of land located in the community
22 district, including the conduct of a public hearing and the
23 preparation and submission to the city planning commission of a
24 written recommendation;

25 [(16)](18) Assist agencies in the preparation of service
26 statements of agency objectives, priorities, programs and projected
27 activities within the community district and review such
28 statements;

29 [(17)](19) Evaluate the quality and quantity of services
30 provided by agencies within the community district; [and]

31 [(18)](20) Within budgetary appropriations for such purposes,
32 disseminate information about city services and programs, process
33 complaints, requests, and inquiries of residents of the community
34 district; and

1 (21) Conduct substantial public outreach, including identifying
2 the organizations active in the community district, maintaining a
3 list of the names and mailing addresses of such community
4 organizations, and making such names and, with the consent of the
5 organization, mailing addresses available to the public upon
6 request.

7 e. Each agency shall furnish promptly to each community board
8 on request any information or assistance necessary for the board's
9 work. Each agency shall also report periodically to each board on
10 its service activities programs and operations within the community
11 district.

12 f. Each community board, within the budgetary appropriations
13 thereof, shall appoint a district manager [who] and shall be
14 authorized to utilize the services of such other professional staff
15 and consultants, including planners and other experts, as it may
16 deem appropriate, all of whom shall serve at the pleasure of the
17 community board and shall provide the board with the staff support
18 and technical assistance it requires to fulfill the duties assigned
19 to it by this charter or other law. The district manager shall (1)
20 have responsibility for processing service complaints, (2) preside
21 at meetings of the district service cabinet and (3) perform such
22 other duties as are assigned by the community board in accordance
23 with the statement of duties required by paragraph seven of
24 subdivision d of this section. One of the board members shall be
25 elected by the other members to serve as chairperson. The
26 chairperson shall use no title other than chair or chairperson of
27 the community board and the other members shall use no title other
28 than member of the community board or community board member,
29 except that any member who is elected or appointed to an official
30 position on the board, including but not limited to, vice-
31 chairperson, secretary, treasurer, or chair of a committee or
32 subcommittee of the board shall be allowed to use such title when
33 acting in such capacity. The department of [investigations]
34 investigation shall investigate any allegations concerning the

1 misuse of a community board title and shall report its findings to
2 the mayor, the council and the borough president in whose borough
3 the community board is located. The knowing and intentional use
4 of an improper title by any member of a community board shall be
5 punishable by a civil penalty of not less than one hundred dollars
6 nor more than two hundred and fifty dollars for every infraction
7 thereof. The chairperson of the community board or his or her
8 representative shall be a member of the district service cabinet.
9 A member of a community board shall be eligible for appointment to
10 the position of district manager provided that such member does not
11 participate in any manner in the selection of the district manager
12 by the board and resigns as a member of any board prior to or upon
13 assuming the duties of district manager.

14 g. Each community board may employ such other assistants as it
15 may require within budgeted appropriations for such purposes or
16 funds contributed for such purpose. Any funds appropriated by the
17 city to enable the community boards to conduct their duties and
18 responsibilities pursuant to this chapter shall be allocated
19 directly to each board subject to the terms and conditions of such
20 appropriations. The basic budget appropriation for the personal
21 service and other than personal service needs of each community
22 board shall not include rent. Within reasonable limits appropriate
23 to each board's location, rent shall be separately appropriated for
24 the board.

25 h. Except during the months of July and August, each community
26 board shall meet at least once each month within the community
27 district and conduct at least one public hearing each month. Each
28 board shall give adequate public notice of its meetings and
29 hearings and shall make such meetings and hearings available for
30 broadcasting and cablecasting. At each public meeting, the board
31 shall set aside time to hear from the public. The borough president
32 shall provide each board with a meeting place if requested by the
33 board.

1 i. Each community board may create committees on matters
2 relating to its duties and responsibilities. It may include on
3 such committees persons with a residence or significant interest
4 in the community who are not members of the board, but each such
5 committee shall have a member of the board as its chairperson.
6 Except as otherwise provided by law, meetings of such committees
7 shall be open to the public.

8 Sec. 2801. Actions of community boards. a. A majority of
9 the appointed members of any community board shall constitute a
10 quorum of such board.

11 b. Whenever any act is authorized to be done or any
12 determination or decision made by any community board, the act,
13 determination or decision of the majority of the members present
14 entitled to vote during the presence of a quorum, shall be held to
15 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. 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 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;

1 (2) establish, determine, control, install and maintain the
2 design, type, size and location of any and all signs, signals,
3 marking, and similar devices indicating the names of the streets
4 and other public places and for guiding, directing or otherwise
5 regulating and controlling vehicular and pedestrian traffic in the
6 streets, squares, parks, parkways, highways, roads, alleys,
7 marginal streets, bridges and other public ways of the city;

8 (3) make recommendations to the mayor as to the design and
9 location of highway lighting devices, poles and fixtures, and the
10 type of intensity of illumination of streets and highways;

11 (4) prepare and submit to the mayor a proposed comprehensive
12 city traffic plan;

13 (5) collect and compile traffic data and prepare engineering
14 studies and surveys in regard to vehicular and pedestrian traffic;

15 (6) prepare and submit to the mayor detailed reports in regard
16 to traffic conditions in the city;

17 (7) make recommendations to the mayor in regard to methods of
18 ameliorating traffic conditions which adversely affect the welfare
19 of the city and which cannot be remedied by traffic rules and
20 regulations;

21 (8) submit to the mayor from time to time for consideration and
22 forwarding to appropriate city agencies, specific proposals for
23 amendment of any resolutions, rules, or regulations of any city
24 agency which affect traffic conditions in the city, and proposed
25 legislation which may be necessary to implement and effectuate such
26 proposals;

27 (9) prepare and submit to the mayor, for consideration and
28 forwarding [by him] to [the board of estimate,] the council, the
29 city planning commission and to other agencies of the city,
30 recommendations and proposals for the improvement of existing
31 streets, street widening and the location of new streets, avenues,
32 highways and parkways; the location and design of parking garages
33 and parking areas; the establishment of public parking garages and
34 parking areas; the location, type and design of off-street loading

1 and unloading and parking facilities; and other matters relating
2 to traffic control;

3 (10) coordinate the efforts of and consider the reports,
4 recommendations and suggestions of public and private agencies and
5 civic groups in regard to traffic conditions and traffic control
6 in the city;

7 (11) prepare analyses of traffic accidents with a view to
8 determining their causes and means for their prevention;

9 (12) carry on educational activities for the purpose of
10 promoting traffic safety and free movement of vehicular and
11 pedestrian traffic in the city;

12 (13) establish parking meter zones, determine the design, type,
13 size, location and use of parking meters and fix the fees for
14 parking in parking areas and public parking garages except that
15 regulations pertaining to the use of parking meter zones shall not
16 apply to vehicles operated by disabled persons duly displaying
17 special vehicle identification cards issued by the commissioner
18 other than at those periods of time when "no standing" restrictions
19 are in effect in the metered zones. The parking fees and fines and
20 penalties for violation of parking rules so collected shall be paid
21 into a special fund to be known as the "traffic improvement fund."
22 The revenues of such fund, upon authorization by the [board of
23 estimate] council, shall be used for the payment of all costs of
24 purchase, rental, engineering, installation, operation, maintenance
25 and repair of parking meters, for the collection of coins, for the
26 enforcement of rules and regulations pertaining to vehicular
27 parking, the collections of fines and penalties for violation of
28 such rules and regulations, and for the payment of interest on,
29 amortization of, or payment of any indebtedness contracted by the
30 city in connection with the installation, operation and maintenance
31 of parking meters. Any revenues remaining after such payments are
32 made shall be used for capital and other expenditures to ameliorate
33 traffic conditions which adversely affect the welfare of the city;

1 (14) enforce laws, rules and regulations concerning the parking
2 of vehicles and the movement and conduct of vehicular and
3 pedestrian traffic;

4 (a) Notwithstanding the provisions of any other law the
5 commissioner shall have the power, concurrently with the police
6 department, to enforce all laws, rules and regulations prohibiting,
7 regulating, directing, controlling or restricting both the parking
8 of vehicles and the movement and conduct of vehicular and
9 pedestrian traffic in and on all streets, squares, avenues,
10 highways, parkways and public off-street parking facilities in the
11 city. As used in this section the term "parking" shall mean and
12 include the parking, standing and stopping of vehicles at meters
13 and off-street parking metered areas and on any highway in the city
14 as such terms are defined in the traffic regulations of the city
15 promulgated pursuant to law; and the term "highway" shall mean and
16 include any highway or public highway as defined in sections one
17 hundred thirty-four and sixteen hundred forty-two of the vehicle
18 and traffic law.

19 (b) The commissioner may employ, hire and retain officers,
20 agents and employees for the purpose of enforcing laws, rules and
21 regulations prohibiting, regulating, directing, controlling or
22 restricting the parking of vehicles and the movement and conduct
23 of vehicular and pedestrian traffic, which officers, agents and
24 employees are hereby authorized, empowered and designated to issue,
25 make and serve tickets, summonses and complaints for traffic
26 infractions pursuant to article two-A of the vehicle and traffic
27 law and such rules and regulations as may be promulgated
28 thereunder, to issue, make and serve simplified traffic information
29 and to issue, make and serve appearance tickets for traffic
30 infractions, misdemeanors and violations related to the movement
31 and conduct of vehicular traffic, pursuant to article two-B of the
32 vehicle and traffic law and title nineteen of the administrative
33 code of the city of New York and such rules and regulations as may
34 be promulgated thereunder.

1 (15) issue special vehicle identification permits;

2 (a) Upon application, the commissioner shall issue a special
3 vehicle identification permit to a New York city resident certified
4 by the department of health as suffering from a permanent
5 disability seriously impairing mobility, who requires the use of
6 private automobile for transportation and to a non-resident
7 similarly certified who requires the use of a private automobile
8 for transportation to a school in which such applicant is enrolled
9 or to a place of employment, provided, however, that an applicant
10 for such permit must possess an operator's or chauffeur's license
11 with any restrictions indicating special devices or equipment
12 required for the operation of a motor vehicle noted thereon by the
13 department of motor vehicles.

14 (b) A vehicle bearing such special vehicle identification permit
15 when parked shall not be deemed in violation of any of the
16 provisions of the rules and regulations governing parking in the
17 city except where such a vehicle shall be parked in a bus stop, a
18 taxi-stand, within fifteen feet of a fire hydrant, a fire zone, a
19 driveway, a crosswalk, a no stopping zone, a no standing zone, or
20 where such vehicle is double parked.

21 (c) The name, address and telephone number where the permittee
22 can be reached shall be written on the reverse side of the permit,
23 not to be displayed to the public, but to be available for
24 emergency purposes.

25 (d) Any person to whom a permit has not been issued, and who
26 shall use a permit issued pursuant to this section for any purpose
27 other than parking a motor vehicle while transporting a physically
28 handicapped person, shall be guilty of a misdemeanor.

29 (e) Certifications by the department of health of applications
30 for special vehicle identification permits shall be made at those
31 district health offices designated for such purpose by the
32 commissioner of health. At least one such district health office
33 shall be designated in each borough for special vehicle
34 identification permit certifications. Such certifications shall be

1 available by appointment at each of said borough health offices,
2 or an alternative location within the borough as designated by the
3 commissioner by regulation, on a regular basis.

4 (16) operate and control the parking violations bureau.

5 (17) Establish and publicize a telephone number for citizen
6 reporting of violations of section 1203-c of the vehicle and
7 traffic law;

8 (a) The department shall affix a sign indicating the
9 aforementioned telephone number to all above grade signs, located
10 on city property which display the international symbol of access;

11 (b) Any person, firm or corporation that is required by law to
12 install such above grade signs, which display the international
13 symbol of access, shall affix a sign indicating the aforementioned
14 telephone number to these signs.

15 (c) Whenever the department shall determine that such a sign
16 should be installed or affixed, it may order the owner of the
17 property to perform such work. Such order shall specify the work
18 to be performed and shall fix a reasonable time for compliance.
19 The department shall, by appropriate regulations, provide for a
20 reinspection by a departmental inspector, if the owner of the
21 property requests such reinspection.

22 (d) Upon the owner's failure to comply with such order or
23 notice within thirty days of service thereof, the department may
24 perform the work or cause same to be performed, the cost of which,
25 together with administrative expenses, as determined by the
26 commissioner, but not to exceed twenty percent of the cost of
27 performance, shall constitute a debt recoverable from the owner by
28 lien on the property affected or otherwise. Upon entry by the city
29 collector, in the book in which such charges are to be entered, of
30 the amount definitely computed as a statement of account by the
31 department, such debt shall become a lien prior to all liens or
32 encumbrances on such property, other than taxes. An owner shall
33 be deemed to have complied with this subdivision if he or she
34 performs such work as specified in the order within the time set

1 forth therein.

2 (e) Service of a notice or order upon an owner pursuant to the
3 provisions of this section shall be made upon such owner or upon
4 his or her designated managing agent personally or by certified or
5 registered mail, return receipt requested, addressed to the person
6 whose name appears on the records of the city collector as being
7 the owner of the premises. If the records of the city collector
8 show that a party, other than the owner, has been designated to
9 receive tax bills for such property, the notice shall be mailed to
10 such party as well as the owner of record, at his or her last known
11 address. If the postal service returns the order with a notation
12 that the owner refused to accept delivery of such notice, it may
13 be served by ordinary mail and posted in a conspicuous place on the
14 premises.

15 (f) A copy of such notice or order shall also be filed in the
16 office of the clerk of the county where the property is situated,
17 together with proof of service thereof.

18 (g) A notice of such account, stating the amount due and the
19 nature of the charge, shall be mailed by the city collector, within
20 five days after such entry, to the last known address of the person
21 whose name appears on the records of the city collector as being
22 the owner or the agent or as the person designated by the owner to
23 receive tax bills or where no name appears, to the premises,
24 addressed to either the owner or the agent.

25 (h) If such charge is not paid within ninety days from the date
26 of entry, it shall be the duty of the city collector to charge and
27 receive interest thereon, to be calculated to the date of payment
28 from the date of entry.

29 (i) Such charge and interest shall be collected and the lien
30 thereof may be foreclosed in the manner provided by law for the
31 collection and foreclosure of the lien of taxes, sewer rents, sewer
32 surcharges and water charges due and payable to the city, and the
33 provisions of chapter four of title eleven of the code shall apply
34 to such charge and the interest thereon and the lien thereof.

(j) In addition to collecting the charge for the cost of installation or affixing of such a sign, the city may maintain a civil action for recovery of such charge against a property owner who is responsible under this section for such work in the first instance, provided however, that in the event that the department performs the work without duly notifying such person in the manner prescribed in subdivision e, the cost to the city of performing such work shall be prima facie evidence of the reasonable cost thereof.

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

1 pneumatic tubes, provided, however, that this subdivision shall not
2 be construed to grant permission to open or use the streets except
3 by persons or corporations otherwise duly authorized to carry on
4 business of the character above specified;

5 (6) construction, alteration and maintenance of all bridges and
6 tunnels. The commissioner shall issue a report to the mayor, [board
7 of estimate,] city council and the people of the city about the
8 condition of all bridges and tunnels operated and maintained by the
9 department on March first, as of December thirty-first of the
10 preceding calendar year. The report shall include a description of
11 all capital and revenue budget funds appropriated for
12 rehabilitation and maintenance of bridges and tunnels as well as
13 the program developed by the commissioner for the maintenance of
14 all bridges and tunnels in the city of New York;

15 (7) removal of encroachments on public roads, streets, highways
16 and parkways, with the exception of seasonal horticultural
17 operations, as defined by regulations to be adopted by the
18 commissioner, to be executed by the department of parks and
19 recreation, and snow removal and de-icing operations to be carried
20 out by the department of sanitation;

21 (8) clearing, grubbing, grading, filling or excavating of vacant
22 lots and other land areas, as provided by law;

23 (9) installation of metal chain link fences or barriers on
24 overpasses, footbridges, bridges or walkways extending over
25 highways, roadways, parkways and streets. Every fence or barrier
26 so installed shall extend a suitable height above the surface level
27 of such overpass, footbridge, bridge or railing, abutment or
28 curbing thereon or adjacent thereto;

29 (10) designing, constructing and maintaining a lighting system
30 for streets, highways, parks and public places in the city.

31 c. Ferries and related facilities. The commissioner shall:

32 (1) maintain and operate the ferries of the city;

33 (2) be responsible for constructing, acquiring, operating,
34 maintaining or controlling all ferry boats, ferry houses, ferry

1 terminals and equipment thereof and all wharf property and marginal
2 roads adjacent to such wharves, ferry houses and terminals
3 necessary for the operation of the ferries and related facilities,
4 including parking sites; any ferry and any other such property,
5 including but not limited to, all or part of such wharf property,
6 may be leased in the same manner as other wharf property provided,
7 however, that from and after the sixtieth day next succeeding the
8 date on which the provisions of this paragraph as hereby amended
9 take effect, no substantial or general change in the level of
10 services furnished upon any such ferry facility under the
11 jurisdiction of the commissioner shall be instituted, allowed or
12 continued except upon not less than thirty days notice to the
13 [board of estimate] city planning commission and the [city]
14 council. Provided, further that notice of such change shall be
15 conspicuously posted in a public place at each ferry house and
16 terminal for a continuous period of at least thirty days in advance
17 of any such change taking effect and in addition, such notice shall
18 further be published at least once during such thirty day period
19 in a daily newspaper of general circulation in the city;

20 (3) have charge and control of all marine operations within the
21 city and the power to regulate public and private ferry operations
22 originating or terminating within the city;

23 (4) establish tours of ferry facilities and their related
24 operations as well as tours of the New York harbor at fees to be
25 established by the commissioner, together with the authority to
26 publicize and advertise the same;

27 (5) issue permits for the control of television and photography
28 activities within or upon ferries and related facilities; and

29 (6) construct, operate and maintain marinas and public boat
30 launching ramps and related facilities of ferry property and
31 collect fees for the use thereof; such fees to be deposited in a
32 special fund for the continued maintenance, operation or
33 reconstruction of public marine facilities.

1 d. Mass transportation facilities. The commissioner shall:

2 (1) prepare or review plans and recommendations with respect to
3 the nature, location, construction, operation and financing of
4 roads, highways, bridges, tunnels, subways or other facilities for
5 mass transportation other than aviation facilities for use in whole
6 or in part within the city whether or not the funds provided for
7 such facilities are derived from the city treasury;

8 (2) develop and coordinate planning and programming for all
9 forms of mass transportation within the city of New York whether
10 or not said transportation is within the sole operating
11 jurisdiction of the city of New York; and

12 (3) make recommendations to the mayor, the metropolitan
13 transportation authority, the New York city transit authority, the
14 port authority of New York and New Jersey and other city, state and
15 federal authorities and agencies concerning the mass transit needs
16 of the city of New York.

17 Sec. 2904. Duties and obligations of property owner with
18 respect to sidewalks, fencing of vacant lots and filling of sunken
19 lots or cutting down of raised lots. The owner of any property at
20 his own cost, shall

21 (1) install, reconstruct, repave and repair the sidewalk in
22 front of or abutting such property, including but not limited to
23 the intersection quadrant for corner property, and

24 (2) fence any vacant lot or lots comprising part or all of such
25 property and fill any sunken lot or lots comprising part or all of
26 such property or cut down any raised lot or lots comprising part
27 or all of such property whenever the transportation department
28 shall so order pursuant to standards and policies of the
29 transportation department. In the event that the owner fails to
30 comply with the provisions of this section, the transportation
31 department may provide for the doing of same at the expense of the
32 owner in the manner to be provided by local law.

33 Sec. 2905. Right of entry. The commissioner or his agent
34 when authorized by him may in accordance with law enter upon public

1 or private property for the purpose of making surveys, borings or
2 other investigations necessary for the exercise of the powers or
3 the performance of the duties of the department. Refusal to permit
4 such entry shall be triable by the judge of the criminal court of
5 the city of New York and punishable by not more than thirty days'
6 imprisonment or by a fine of not more than fifty dollars or both.

7 Sec. 2906. Improved traffic flow at highway construction sites.

8 The commissioner may provide that on any city-sponsored, authorized
9 or assisted arterial highway construction site, or major repair
10 site that in the discretion of the commissioner is likely to
11 substantially disrupt traffic, signs be posted at least one half
12 mile or more prior to the area under construction or repair warning
13 motorists of the fact that such work is in progress and, wherever
14 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 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. 3003. Powers and duties. The commissioner: 1. shall be the chief archivist of the city and shall advise the mayor, [board of estimate] borough presidents 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] borough presidents 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 officer for the mayor, [board of estimate] borough presidents and council and shall, except as otherwise provided by law, establish standards for 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] such commissioner 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,

1 storing and servicing of archival material;

2 c. preserve and receive all city records of historical,
3 research, cultural or other important value;

4 d. appraise, accession, classify, arrange and make available
5 for reference all records which come into the possession of the
6 archives; and

7 e. establish and maintain an archives depository for the
8 storage, conservation, processing and servicing of records.

9 2. The department shall operate a municipal reference and
10 research center, the head of which shall be a professional
11 librarian. The center shall perform the following functions:

12 a. provide information and assistance to the mayor, the board
13 of estimate, members of committees thereof and administrative
14 officers of the city in connection with problems of municipal
15 administration and proposed legislation;

16 b. provide legislative reference assistance to the council, its
17 members and committees and maintain, in a legislative reference
18 section, such records and papers as the council and city clerk may
19 remand to its custody;

20 c. maintain facilities which shall be open to the public
21 wherein, subject to such reasonable regulation as may be
22 prescribed, all books, reports, documents and other materials shall
23 be available for public inspection;

24 d. ensure that at least one copy of each report, document,
25 study or publication of the city or any of its administrations,
26 departments, boards or other agencies shall be available at the
27 center at all times;

28 e. collect, compile and maintain data and information pertaining
29 to the operation of the city as well as other municipalities,
30 governmental bodies and public authorities and arrange for the
31 exchange, sale, purchase and loan of information materials from and
32 with legislative and research services, libraries and institutions
33 in other municipalities, governmental bodies and public
34 authorities.

1 3. The department shall:

2 a. provide for the distribution of publications of the city,
3 where such authority is not vested in another city agency, and
4 issue at regular intervals, no less than quarterly, a bulletin
5 describing its facilities and resources;

6 b. institute actions in replevin to recover any historical
7 and/or other documents properly owned by, or originating from, the
8 city of New York;

9 c. report annually by the thirtieth of September to the mayor,
10 board of estimate and city council on the powers and duties
11 hereinmentioned including but not limited to the cost of savings
12 effectuated by the department during the preceding fiscal year.

13 4. The department shall operate a municipal records management
14 division, the head of which shall be a professional records
15 manager. The center shall perform the following functions:

16 a. develop and promulgate standards, procedures and techniques
17 in relation to records management;

18 b. make continuing surveys of operations relating to records
19 and recommend improvements in current records management practices,
20 including the use of space, equipment and materials employed
21 in the creation, maintenance, storage and servicing of records;

22 c. establish standards for the preparation of schedules for the
23 disposition of records, providing for the retention of records and
24 archives of continuing value, and for the prompt and orderly
25 disposal of records no longer possessing sufficient administrative,
26 legal or fiscal value to warrant their further retention and

27 d. establish, maintain and operate facilities for the storage,
28 processing and servicing of records for all city agencies pending
29 their deposit in the municipal archives or their disposition in
30 any manner as may be authorized by law.

31 Sec. 3007. Departmental libraries. The commissioner shall
32 analyze the needs of each city agency, except the law department,
33 with respect to the establishment and maintenance of any library
34 or research facility therein, and make such recommendations as may

1 be appropriate in the circumstances.

2 Sec. 3008. Rules and regulations. The commissioner shall
3 promulgate rules and regulations to effectuate the purposes of this
4 chapter, except that rules and regulations relating to the disposal
5 of records pursuant to section [three thousand five] eleven hundred
6 thirty-three of this [chapter] charter shall be issued by the
7 commissioner after consultation with the corporation counsel and
8 the comptroller.

9 Sec. 3009. Archives, reference and research advisory board.
10 There shall be in the department an archives, reference and
11 research advisory board which shall consist of fifteen members who
12 shall be appointed by the mayor and which shall consult with the
13 commissioner with respect to the functions referred to in
14 subdivisions one and two of section three thousand four of this
15 chapter to advise [him] such commissioner in matters at his or her
16 request and render annually to the mayor a report regarding the
17 development of municipal archives, reference and research services
18 in the government and administration of the city.

19 Sec. 3010. Municipal archives reference and research fund. 1.
20 There is hereby established a municipal archives reference and
21 research fund, which shall be credited with all sums appropriated
22 therefor, donations made thereto, and proceeds from the disposition
23 of personal property which is in the custody of the department and
24 which the commissioner has determined is not a record which must
25 be retained pursuant to law and is not necessary for archival,
26 reference, or research purposes. Interest accruing on principal
27 from all aforementioned sources also shall be credited to the fund.

28 2. The municipal archives reference and research fund
29 established by this section shall be used, subject to the approval
30 of the director of management and budget, by the department for
31 purposes related to its library and archival research programs
32 including, but not limited to, purchasing and conserving books and
33 other records, financing lecture series and commissioning studies
34 and articles.

1 Sec. 3011. Definitions. As used in this chapter -- 1.
2 "Archives" means those official records which have been determined
3 by the department to have sufficient historical or other value to
4 warrant their continued preservation by the city;

5 2. "Records" means any documents, books, papers, photographs,
6 sound recordings, machine readable materials or any other
7 materials, regardless of physical form or characteristics, made or
8 received pursuant to law or ordinance or in connection with the
9 transaction of official city business. Library and museum
10 materials made or acquired and preserved solely for reference or
11 exhibition purposes, extra copies of documents preserved only for
12 convenience of reference and stocks of publications are not
13 included within the definition of records as used in this chapter;

14 3. "Records management" means the planning, controlling,
15 directing, organizing, training, promoting and other managerial
16 activities involved in records creation, records maintenance and
17 use and records disposition, including but not limited to, the
18 management of correspondence, forms, directives, reports, machine
19 readable records, microfilms information retrieval, files, mail,
20 vital records, equipment and supplies, office copiers, word
21 processing and source data automation techniques, records
22 preservation, records disposal and records centers or other storage
23 facilities;

24 4. "Records management practices" means any system, procedure
25 or technique followed with respect to effective records creation,
26 records maintenance and use and records disposition;

27 5. "Records disposition" means: a. The removal by a city
28 agency, in accordance with approved records retention schedules,
29 of records no longer necessary for the conduct of business by such
30 agency through removal methods which may include:

31 (1) the disposal of temporary records by destruction or
32 donation;

33 (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 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.