

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1991**

No. 49

Introduced by Council Member Pinkett (by the request of the Mayor); also Council Member Crispino—(Passed under a Message of Necessity from the Mayor).

A LOCAL LAW

To amend the Charter of the City of New York and the Administrative Code of the City of New York, in relation to the consolidation of the board of standards and appeals with the office of administrative trials and hearings, the assignment to the department of buildings and to the fire department of the powers of the board of standards and appeals, with respect to the approval of building materials and equipment and the adoption of building code reference standards; and to repeal section 661, subdivisions a and b of section 665 and subdivision 1 of section 666 of the charter, relating to the board of standards and appeals.

Be it enacted by the Council as follows:

Section 1. Section 659 of the charter of the city of New York is renumbered section 660.

§ 2. Such charter is amended by adding a new section 659 to read as follows:

§ 659. *Constitution and appointment.* a. *There shall be an independent board of standards and appeals located within the office of administrative trials and hearings. The board of standards and appeals shall consist of five members to be termed commissioners to be appointed by the mayor each for a term of six years.*

b. *One of the members shall be a planner with professional qualifications and at least ten years' experience as a planner. One of the members shall be either a registered architect and shall have had at least ten years' experience as an architect. One of the members shall be a licensed professional engineer and shall have had at least ten years' experience as an engineer. The mayor shall designate one of the members, who shall have the required experience as an architect, planner or as an engineer, to serve as chair and shall designate one of the members to serve as vice-chair, who shall act as chair in the absence of the chair or in the event that a vacancy exists in the office of chair. Of the members, no more than two shall be residents of any one borough.*

c. *Every member of the board shall receive a salary, which shall not be reduced during his or her term of office except in case of general reduction of salaries and in proportion to reductions of salaries of other officers with similar salaries. A member shall not engage in any other occupation, profession or employment. Members shall attend the hearings and executive sessions of the board, and shall perform such other duties as may be required by the chair.*

d. *Vacancies shall be filled by the mayor for the unexpired term of the member whose place has become vacant and with a person having his or her qualifications.*

§ 3. Section 661 of such charter is REPEALED.

§ 4. Section 660 of such charter, as amended by vote of the electors at the general election on November 7, 1989, is renumbered section 661 and as renumbered is amended to read as follows:

§ 661. Staff, powers and duties. a. The executive director may appoint such engineers, architects, and 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 thereof.

b. The executive director shall assign and supervise all members of his or her staff. 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.

§ 5. Section 663 of such charter, as amended by vote of the electors at the general election on November 7, 1989, is amended to read as follows:

§ 663. Meetings. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. The chair, or in his or her absence the [acting chair] *vice-chair* may administer oaths and compel the attendance of witnesses. All hearings before the board shall be open to the public and shall be before at least [four] *three* members of the board, and a concurring vote of at least [four] *three* members shall be necessary to a decision to grant an application or an appeal, to revoke or modify a variance, special permit or other decision of the board, or to make, amend or repeal a rule or regulation. The board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official action. Such minutes and such records shall be public records.

§ 6. Subdivisions b and c of section 665 of such charter are REPEALED.

§ 7. Subdivision 1 of section 666 of such charter is REPEALED and subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 are renumbered subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, respectively.

§ 8. Subdivision d of section 669 of such charter, as relettered by local law number 11 for the year 1988, is amended to read as follows:

d. Any decision of the board under this section may be reviewed [as provided by law] *in accordance with section 25-207 of the administrative code of the city of New York.*

§ 9. Section 1048 of such charter is REPEALED.

§ 10. Such charter is amended by adding a new chapter 45-A to read as follows:

OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

§ 1048. *Office. There shall be an office of administrative trials and hearings which shall conduct adjudicatory hearings for all agencies of the city unless otherwise provided for by executive order, rule, law or pursuant to collective bargaining agreements. The office shall be directed by the chief administrative law judge, who shall be an attorney admitted to practice for at least five years in the state of New York. The chief administrative law judge shall be appointed by the mayor.*

§ 1049. *Powers of the chief administrative law judge.*

1. *The chief administrative law judge shall have authority to direct the office established pursuant to section one thousand forty-eight with respect to its management and structure and to appoint a staff of administrative law judges. Each administrative law judge shall be an attorney admitted to practice in the state of New York for at least five years. Each administrative law judge shall be appointed for a term of five years removable only for cause after notice and opportunity for a hearing on a record.*

2. The chief administrative law judge shall establish rules for the conduct of hearings, in accordance with the requirements of chapter forty-five of the charter.

3. In the conduct of an adjudication, an administrative law judge may:

(a) hold conferences for the settlement or simplification of the issues;
 (b) administer oaths and affirmations, examine witnesses, rule upon offers of proof, receive evidence, and oversee and regulate discovery procedures;

(c) upon the request of an agency or any party, or upon the administrative law judge's own volition, subpoena the attendance of witnesses and the production of books, records, or other information;

(d) regulate the course of the hearing in accordance with agency rules and chapter forty-five of the charter, provided that if agency rules are silent as to a particular matter, the rules of the office of administrative trials and hearings shall apply;

(e) dispose of procedural requests or similar matters;

(f) make recommended or final findings of fact or decisions, determinations or orders, as authorized by law;

(g) take any other action authorized by law or agency rule consistent therewith.

§ 11. Subparagraph (vii) of paragraph b of subdivision 5 of section 1041 of such charter, as amended by local law number 42 for the year 1989, is amended to read as follows:

(vii) building code reference standards amended, revised or added by the [board of standards and appeals] *commissioner of the department of buildings in consultation with the fire commissioner on all issues relating to fire safety* after notice and a public hearing and published as part of the administrative code.

§ 12. Paragraph (2) of subdivision (b) of section 24-119 of the administrative code of the city of New York is amended to read as follows:

(2) That any such grinder shall be designed and installed in accordance with such design or manner of installation as may be approved by the *commissioner of environmental protection or as may have been previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner*; and

§ 13. Section 25-203 of the administrative code of the city of New York is amended to read as follows:

§ 25-203 Board's orders; violation; penalty. Any person who shall knowingly violate or fail to comply with any lawful order or requirement of the board made under the authority of sections six hundred [sixty-one] *sixty-six* [to] *and* six hundred sixty-eight [inclusive] of the charter shall be guilty of a misdemeanor; and in addition thereto, and in addition to all other liabilities and penalties imposed by law, shall forfeit and pay for each such violation and non-compliance respectively, a penalty in the sum of not more than two hundred and fifty dollars, as may be fixed by the court awarding judgment therefor. An action may be brought for the recovery of any such penalty or penalties in the New York city civil court or any other court of record in the city, in the name of the city.

§ 14. Subdivision 2 of section 25-204 of the administrative code of the city of New York, as amended by local law number 37 for the year 1986, is amended to read as follows:

2. An order, requirement, decision or determination made with respect to or under the provisions of section 26-127 of the code and [subchapters two, four and five] *article eight of subchapter three* of chapter one of title twenty-six of the code.

§ 15. Subdivision a of section 25-207 of the administrative code of the city of New York is amended to read as follows:

a. Petition. Any person or persons, jointly or severally aggrieved by any decision of the board [upon appeal or review had under section six hundred sixty-six of the charter, or any

agency or the city, or the board of standards and appeals of the labor department of the state,] may present to the supreme court a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to a justice of the supreme court or at a special term of the supreme court within thirty days after the filing of the decision in the office of the board[, or its publication in the bulletin].

§ 16. Section 27-131 of the administrative code of the city of New York is amended as to read a follows:

(a) Methods of acceptance. No material of any manufacturer or producer shall be acceptable for the use intended unless and until the material shall have been tested for compliance with code requirements under a test method prescribed by the code, or shall have been tested and approved by the *commissioner or shall have been previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner.*

(1) Code test method. Whenever the code prescribes a method for testing any material, the material shall be tested in accordance with such test method (a) under the direction of an architect or engineer, or (b) by a testing service or laboratory acceptable to the commissioner. The commissioner may require the witnessing of tests by his or her representative. The test report showing compliance with code requirements and bearing the signature of the architecture or engineer, or the signature of an officer of the testing service or laboratory, as the case may be, shall be filed with the department. The commissioner may require a certificate of the manufacturer or producer, certifying that the material tested was and is equivalent to material of the same kind and quality regularly being manufactured by such manufacturer or producer. Upon the filing of the test report, as provided above, the material shall be acceptable for the use intended, subject to the provisions of subdivisions [(b), (g) and (h)] *(d) and (e)* of this section.

(2) [Board] *Commissioner* approval. Materials which in their use are regulated by the provisions of this code but cannot satisfy the requirements of paragraph one of this subdivision [or whenever the code requires that a material be approved, the material] shall not be acceptable for the use intended unless and until the material shall have been tested and approved for such use by [or for the board of standards and appeals and a certified copy of the board's resolution of approval shall have been filed with the department] *the commissioner.* For the purposes of this requirement, all [resolutions of approval of materials issued by the board, and filed with the department prior to the effective date of this code, shall remain effective until the same are modified or rescinded. All] materials legally acceptable prior to [the effective date of this code] *July 1, 1991* shall be permitted *subject to the provisions of subdivision d of this section.*

[(b) Publication. Within twenty days after the filing of the test report, the commissioner shall publish in the City Record in list form, by appropriate category, the material, briefly described as necessary, if such material is tentatively acceptable. Any person, upon a statement of cause, may request the commissioner that a material so listed not be permitted in use. At the expiration of twenty days after publication the material shall be acceptable and permitted in use. The commissioner shall strike, by publication, from the aforesaid published list any material found unacceptable and such material shall not be subsequently permitted in use. The commissioner shall periodically publish a complete list of material acceptable for use. Notwithstanding the above, the commissioner may, in his or her discretion, after the filing of the aforesaid test report, permit the immediate use of any and all of the listed material, pending the acceptance of said material for general use.]

[(c)] (b) List of acceptable laboratories *and materials*. A current list of all testing services and laboratories acceptable to the commissioner for the purpose of testing materials, as provided in subparagraph (b) of paragraph one of subdivision (a) of this section *and a current list of all acceptable materials*, shall be maintained by the department and made available for public inspection.

[(d)] Building code reference standards. The appendix to this chapter of the administrative code, known as the "building code reference standards", is hereby adopted and promulgated and shall be known as the "building code rules" of said chapter; except for the following reference standards RD3-3, RS4-1, RS4-2, RS4-3, RS7-5, RS9-2 and such portion of RS16 not included in the "List of Referenced National Standards".]

[(e)] Amendment or revision of reference standards. The board shall be empowered to amend or revise the building code rules or issue new building code reference standards consonant with the remainder of the code only upon the application of the commissioner and within the scope of the application. The board shall either approve or disapprove the said application within sixty days after the filing of same with the board. If the board fails to approve or disapprove the said application within the sixty day period, then the recommendations of the applications shall be deemed adopted, if the commissioner complies with the provisions of section eleven hundred five of the charter.]

[(f)] (c) Certification of accepted materials. All shipments and deliveries of such materials shall be accompanied by a certificate or label certifying that the material shipped or delivered is equivalent to the materials tested and acceptable for use, as provided in this section[.]. [such] *Such* certificate or label *is* to be provided [(a)] (1) by the manufacturer or producer of the material, or [(b)] (2) by a testing service or laboratory acceptable to the commissioner and regularly engaged by the manufacturer or producer to make periodic inspections and/or tests of the material in the course of manufacture or production. In the case of materials *previously* approved by the board of standards and appeals, [as provided in paragraph two of subdivision (a) of this section,] the shipment or delivery of the material has been approved for use by the board, and containing the calendar number under which the material received board approval.

[(g)] (d) Retesting of materials. All materials tested and acceptable for use [as provided in paragraph one of subdivision (a) of this section] shall be subject to periodic retesting as determined by the commissioner; and any material which, upon retesting is found not to comply with code requirements *or the requirements set forth in the approval of the commissioner* shall cease to be acceptable for the use intended. During the period for such retesting, the commissioner may require the use of such material to be restricted or discontinued if necessary to secure safety.

[(h)] (e) Conflicting test results. Whenever there is evidence of conflicting results in the tests of any material, the commissioner shall determine the acceptability of the material and/or the acceptable rating for such material.

§ 17. Title 27 of the administrative code of the city of New York is amended by adding a new section 27-131.1 to read as follows:

§ 27-131.1 *Reference Standards. The appendix to this chapter of the administrative code, known as the "building code reference standard", is adopted and promulgated and shall be known as the "building code rules" of said chapter; except for reference standards RS4-3, RS7-2, and such portions of RS16 not included in the "List of Referenced National Standards". The commissioner shall be empowered to issue or amend the building code reference standards acting in consultation with the fire commissioner on all issues relating to fire safety.*

§ 18. The definition of APPROVED in section 27-232 of the administrative code of the city of New York is amended to read as follows:

APPROVED. When used in connection with plans, *materials and equipment* shall mean approved by the commissioner; when used in connection with materials and equipment, shall also mean *previously* approved by the board, *unless such approval is amended or repealed by the commissioner*; otherwise shall mean approved by the department or agency indicated by the text.

§ 19. Subdivision a of section 27-981 of the administrative code of the city of New York is amended to read as follows:

a. All smoke detecting devices required to be provided and installed pursuant to this article shall either be accepted pursuant to rules and regulations promulgated by the commissioner[, approved by the board of standards and appeals] or be listed by a nationally recognized independent laboratory that maintains periodic inspections of production of listed equipment and whose listing states that the equipment meets nationally recognized standards. To meet the requirements of this article, such laboratory shall be one which maintains a periodic follow-up service of the devices to ensure compliance with the original listing.

§ 20. Paragraph 7 of section 27-4002 of the administrative code of the city of New York is amended to read as follows:

7. Certificate of approval, a written statement issued by the fire commissioner, certifying that the type, class or kind of article or thing mentioned therein has been examined, tested and approved in conformity with subchapters one through [twenty-seven] *twenty-nine* of this chapter[, and that it is authorized]. *In those instances where a testing standard is not prescribed by this chapter, the type, class or kind of article or thing shall have been examined and tested to the satisfaction of the commissioner and approved by the commissioner. Such certificate of approval shall be an authorization for the type, class or kind of article or thing to be manufactured, stored, transported, sold or used.*

§ 21. Title 27 of the administrative code of the city of New York is amended by adding a new section 27-4015.1 to read as follows:

§ 27-4015.1 *List of acceptable laboratories and materials. A current list of all testing services and laboratories acceptable to the commissioner for the purpose of testing materials and a current list of all acceptable materials shall be maintained by the department and made available for public inspection.*

§ 22. Paragraph 10 of subdivision b of section 27-4053 of the administrative code of the city of New York is amended to read as follows:

10. Overflow protection. To prevent an overflow each tank shall be equipped with an electrically operated device [approved] *of a type for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner.* [which] *Such device* will operate automatically an audible and visible alarm when the liquid level in the tank approaches ninety-five percent of tank capacity and again when it attains a level of ninety-eight percent of tank capacity. This alarm shall be connected to both the marine or pipe line receiving point and to the bulk plant dispatcher's office.

§ 23. Section 27-4056 of the administrative code of the city of New York is amended to read as follows:

§ 27-4056 Waste oil disposal. It shall be unlawful to dispose of any type of waste oil by discharging or disposing such oil in any public drain, sewer, river, stream or other body of water, or on any ground area. [Notwithstanding any provision of the board of standards and appeals, waste] *Waste* oils may be mixed with number six fuel oil in bulk or waste oil recovery

plants in such proportions as the commissioner may permit, providing that the resultant mixture shall meet the minimum specifications for number six oil, as provided in commercial standard CS 12-48 and ASTM standard D-396, and shall have a flash point of not less than one hundred fifty degrees Fahrenheit when tested in a Tagliabue open cup tester. Such mixtures may be used for fuel in oil burners approved by the *commissioner of the department of buildings or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner of the department of buildings*, [and/or department of buildings] for number six fuel oil usage, both hereafter and heretofore installed. Such usage shall be in compliance with all laws, rules and regulations in relation to smoke and other emissions and subject to the approval of the department of environmental protection.

§ 24. Subdivision a of section 27-4062 of the administrative code of the city of New York is amended to read as follows:

a. Portable burners. All portable [or other] burners or heating devices using fuel oil[, not requiring the approval of the board of standards and appeals,] shall be [inspected by a representative of the fire department either on the premises of the seller or premises where used, and] *of a type for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner. Such device shall be labeled in accordance with the requirements of the commissioner. Only an approved safety can may be used for filling these devices. Nothing contained in this section shall be construed as permitting the use, keeping, storage, or maintenance of a portable [or other] burner or heating device using fuel oil, in any case where such use, keeping, storage, or maintenance is prohibited by section 27-4253 of this chapter of the code.*

§ 25. Subdivisions f and i of section 27-4065 of the administrative code of the city of New York are amended to read as follows:

f. Filling pipes. The filling pipe shall be at least two inches and not larger than four inches nominal inside diameter, and shall be laid at a descending grade to the tank, terminating within six inches of the bottom of the tank. The intake of a filling pipe shall be located outside of any building and not less than ten feet from any door, subway grating or basement opening, and in a heavy metal box, which shall be sunk flush with the sidewalk at the curb level, or at some other location offering equal facilities for the filling of the tank and fitted with a heavy metal cover, which shall be liquid tight and kept closed when not in use. The filling pipe shall be closed at the intake by a cock or valve fitted with a coupling for attaching to the tank truck, and with a liquid tight cap or plug to close the opening when not in use. The filling pipe shall be provided with a screen made of one thickness of 20-mesh brass wire gauze, placed immediately below the filling cock or valve. Where a storage system for flammable liquids and a storage system for diesel motor fuel oil and/or fuel oil are to be used on the same premises, the terminal of the diesel motor fuel oil and/or fuel oil fill pipe shall be provided with a left handed thread and the fill pipe fitting shall be of a different size than that required for the fill pipe to tanks containing flammable liquids. In lieu of the foregoing, fill boxes may be of a type [approved] *for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner*, and shall have cast in its cover an identifying name or symbol to differentiate between fuel oil for heating and diesel oil as motor fuel.

i. Piping, generally. Each storage tank shall be provided with a filling pipe, a drawing-off pipe and a vent pipe; provided that tanks installed as part of a hydraulic storage system shall not be required to have a vent pipe. All pipes and fittings shall be of galvanized

steel, designed to withstand a hydrostatic pressure test of at least one hundred pounds to the square inch. All screw joints shall be made with a piping compound[, approved] *of a type for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner.* In lieu of galvanized steel fittings, galvanized malleable iron fittings, with one hundred and fifty [pound] p.s.i. rating, may be used on any system that is provided with a leak detection system satisfactory to the fire commissioner such as probe holes, leak detection cables or other devices installed around the perimeter of the tank installation, designed for monitoring and that will be subjected to a hydraulic pressure test with water or product at ten p.s.i. in the presence of a fire department representative, every ten years. Brass trimmed specialty valves and brass control valves may be used in underground service lines and portions of suction lines within pump housing.

§ 26. Paragraph 5 of subdivision m of section 27-4065 of the administrative code of the city of New York is amended to read as follows:

5. Provided with a liquid level or depth indicating device when the tank is located inside a building. Test wells will not be permitted in tanks located inside of buildings. Liquid level or depth indicating devices, installed after this section takes effect, shall be substantially constructed and designed to prevent the escape of liquid or vapor and shall be of a type [approved] *for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner.* Unused tank openings shall be permanently sealed at the tank to prevent removal of plugs or covers.

§ 27. Subdivision c of section 27-4076 of the administrative code of the city of New York is amended to read as follows:

c. Approval of appliances. 1. It shall be unlawful to install any portable tank, [oil separator,] pump or dispensing device or other similar apparatus in a garage unless it be of a type [approved] *for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner* [except that oil separators shall be of a type approved by the board of standards and appeals and/or the department of buildings].

2. *It shall be unlawful to install any oil separator in a garage unless it be of a type approved by the commissioner of the department of buildings or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner of the department of buildings.*

§ 28. Subparagraph A of paragraph 4 of subdivision b of section 27-4081 of the administrative code of the city of New York is amended to read as follows:

A. Motor fuel liquids shall be transferred from underground tanks by means of fixed pumps of a type [approved] *for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner.* Such liquids shall not be transferred by any equipment or procedure which subjects the shell of the storage tank to pressures above its allowable working pressure. Hose at dispensing units shall not exceed sixteen feet except at airports and marinas, where the length shall be determined by the commissioner, all hose shall be of a type approved by a nationally recognized testing laboratory;

§ 29. Paragraph 6 of subdivision b of section 27-4081 of the administrative code of the city of New York is amended to read as follows:

6. Pits. Pits for subsurface pumps or piping manifolds of submersible pumps shall be no larger than [provided for in the approval] *necessary as determined by the commissioner or*

provided for in the prior approval by the board of standards and appeals, unless such approval is amended or repealed by the commissioner. Pits shall be constructed to the satisfaction of the commissioner of the department of buildings and shall withstand the external forces to which they may be subjected without damage to the pump, tank or piping. Pits shall be provided with a tight fitting cover for inspection and maintenance. For all pits installed prior to July 1, 1991, [Where] where size and/or construction of pit [is not] has not been specified by the board of standards and appeals, a pit of eight inch concrete block masonry eighteen by eighteen inches shall [be] have been provided. Grease and repair within an enclosed building shall be provided with mechanical ventilation to conform to the requirements of the building code and the department of buildings.

§ 30. Subparagraphs A and E of paragraph 7 of subdivision b of section 27-4081 of the administrative code of the city of New York are amended to read as follows:

A. This section shall apply to systems for delivering motor fuel liquids to the fuel tanks of motor vehicles at service stations where such liquids are transferred from underground storage tanks to individual or multiple dispensing units, by pumps located elsewhere than at the dispensing units. Such installations shall conform with the approval of the commissioner or with the prior approval of the board of standards and appeals, unless such approval is amended or repealed by the commissioner.

E. Approved impact valves on dispensers and approved leak detectors on discharge piping shall be provided for submerged pumps or remote control pumps. The leak detection device shall be of a type [approved] for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner. [which] The leak detection device will shut off the pump or stop all flow over one and one half gallons per hour through the discharge piping in the event of a leak or break in the discharge piping. The leak detection device shall be located at the pump head or as close as possible to the pump head.

§ 31. Subparagraph A of paragraph 9 of subdivision b of section 27-4081 of the administrative code of the city of New York is amended to read as follows:

A. Threaded joints and connections shall be made up tight with piping compound of a type [approved] for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner.

§ 32. Subparagraph A of paragraph 2 of subdivision b of section 27-4082 of the administrative code of the city of New York is amended to read as follows:

A. All fuel dispensers and pumps shall be of a type [approved] for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner.

§ 33. Subparagraph B of paragraph 3 of subdivision b of section 27-4082 of the administrative code of the city of New York is amended to read as follows:

B. A leak detection device of a type [approved] for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner, which will shut off the pump or stop all flow over one and one-half gallons per hour through the discharge piping in the event of a leak or break in the discharge piping shall be provided for all remote or submerged pump installations. The leak detection device shall be located at the pump head, or as close as possible to the pump head.

§ 34. Subparagraph D of paragraph 4 of subdivision b of section 27-4082 of the administrative code of the city of New York is amended to read as follows:

D. All fire detection, alarm systems and devices for fuel dispensing shall be of a type [approved] *for which a certificate of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner.* Such installations shall be inspected by the bureau of fire prevention and be satisfactory to the commissioner.

§ 35. Paragraph 4 of subdivision m of section 27-4200 of the administrative code of the city of New York is amended to read as follows:

4. The ceiling of the room, if not of fireproof construction, shall be protected with fire retarding material in accordance with the rules of the *commissioner of the department of buildings or those previously issued by the board of standards and appeals, unless amended or repealed by the commissioner of the department of buildings.*

§ 36. Paragraph 2 of subdivision d of section 27-4253 of the administrative code of the city of New York is amended to read as follows:

(2) In the event of failure of a central heating unit in any building other than a private dwelling, multiple dwelling or place of public assembly during severe cold weather, portable kerosene space heaters [approved] *of a type for which a certificate of approval shall have been issued by the commissioner for such use or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner,* may be used for a period not exceeding two weeks when installed in a manner satisfactory to the fire commissioner.

§ 37. Section 27-4266 of the administrative code of the city of New York is amended to read as follows:

§ 27-4266 Flame-proofing of decorations, drapes, curtains and scenery. It shall be unlawful for any person to use any decoration, drape, curtain and scenery used for artistic enhancement, which is made of combustible material, unless painted or saturated with a non-combustible material or liquid or otherwise rendered safe against fire in accordance with the requirements of the commissioner, in any building of public character, including a hotel, theatre, restaurant, public hall, department store, and a building used or intended to be used for purposes of public assembly, or licensed places of public assembly, amusement or instruction, and a building where large numbers of persons congregate. The liquids, materials or compounds, as required under the provisions of this section [and their] *shall be types for which certificates of approval shall have been issued by the commissioner or previously approved by the board of standards and appeals, unless such approval has been amended or repealed by the commissioner.* The method of application[,] *of the liquids, materials and compounds* shall be approved by the *commissioner or previously approved by the board of standards and appeals, unless such approval is amended or repealed by the commissioner.* Tests for each specific application of originally treated combustible material, or any retests thereof, and the testing of all flame-proofed products, permitted, pursuant to the provisions of this section, shall be as prescribed by, and in accordance with the requirements of the commissioner. Nothing in this section shall permit the use of any wall or ceiling covering or decoration, having a nitrate cellulose content, or incapable of being adequately flameproofed. Nothing in this section shall be construed to apply to merchandise for sale or displayed for sale, or displayed at a business show; to guest rooms in hotels; to offices; to works of art in museums; nor to churches or to places of religious worship.

Nothing in this section shall prohibit the use of cut flowers, fresh cut decorative greens, or natural trees, plants, shrubs or grass, for artistic enhancement or decorative purposes, provided such trees, plants, shrubs or grass, are in soil and are maintained in a healthy condition. Nothing in this paragraph shall permit the use of hemlock, balsam, spanish moss, or other

decorative greens, which contain pitch. It shall be unlawful to hang or otherwise maintain fresh cut decorative greens in a place of assembly or licensed places of public assembly upon a combustible framework or base, or by means of a combustible material, or to permit any fresh cut decorative greens to be hung, or maintained, for a period in excess of twenty-four hours.

§ 38. This local law shall take effect July 1, 1991, except that the provisions of section 2 of this local law regarding membership of the board of standards and appeals and of section 5 of this local law regarding meetings of such board shall take effect on October 15, 1991.

§ 39. Notwithstanding any provision of this local law, the commissioners of the board of standards and appeals in office on October 15, 1991 shall remain in office until the expiration of their terms.

§ 40. All matters pending before the board of standards and appeals with respect to the approval of materials and equipment and the adoption of building code reference standards on or after July 1, 1991 shall be transferred to the department of buildings or the fire department, as appropriate, for review by those agencies in accordance with this local law and any other law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 30, 1991, and approved by the Mayor on July 17, 1991.

CARLOS CUEVAS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 49 of 1991, Council Int. No. 716-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 30, 1991: 35 for, 0 against.

Was approved by the Mayor on July 17, 1991.

Was returned to the City Clerk on July 18, 1991.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel