

**LOCAL LAW 104 OF 1993**

Int. No. 380-A

By Council Members Dear and Pinkett (by request of the Mayor); also Council Members Malave-Dilan, Foster, Marshall, Robinson and Warden

**A LOCAL LAW**

To amend the administrative code of the City of New York, in relation to the construction, maintenance, repair, obstruction and closure of streets

*Be it enacted by the Council as follows:*

Section 1. Chapter 1 of title 19 of the administrative code of the City of New York, subdivision q of section 19-152 thereof as added by local law 48 for the year 1987, subdivisions a, c, e, f, h, i and o of section 19-152 as amended by and subdivision r of section 19-152 and sections 19-152.2 and 19-152.3 as added by chapter 813 of the laws of 1992, section 19-163 thereof as amended by local law 82 for the year 1992, section 19-169 thereof as amended by local law 22 for the year 1988, section 19-169.1 thereof as added by local law 21 for the year 1991, section 19-170 thereof as amended by local law 62 for the year 1990 and section 19-171 thereof as added by local law 89 for the year 1989, is amended to read as follows:

**CHAPTER 1  
STREETS AND SIDEWALKS**

**SUBCHAPTER 1**

**CONSTRUCTION, MAINTENANCE,  
REPAIR, OBSTRUCTION AND CLOSURE OF STREETS**

§ 19-101 Definitions. Whenever used in this title:

- a. "Commissioner" shall mean the commissioner of transportation.
- b. "Department" shall mean the department of transportation.
- c. "Street" has the meaning ascribed thereto in subdivision thirteen of section 1-112 of this code.
- d. "Sidewalk" shall mean that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, but not including the curb, intended for the use of pedestrians.

§ 19-102 Unlawful use or opening of street. Except as otherwise provided by law, no person shall remove, open or otherwise disturb the pavement of, or excavate in, a public street, or use any part of a public street so as to obstruct travel therein (i) without a permit from the commissioner, and (ii) unless such removal, opening or other disturbance of the pavement or such excavation or use is carried out in accordance with the provisions of this subchapter and of section 24-521 of the code, the rules of the department in relation thereto and the terms and conditions of such permit.

§ [19-102] 19-103 Permits. [In all cases where provision is made by law that the consent of the

commissioner shall be obtained to authorize any act to be done, he or she may grant a permit therefor, subject to the restrictions of all laws in relation thereto. Upon granting any such permit, the commissioner may exact such cash deposit or bond, or both, as he or she may deem necessary to safeguard the interests of the city.]

*a. In addition to any of the requirements specified in this subchapter and except as hereinafter specifically provided, all permits issued by the commissioner pursuant to this subchapter shall be subject to the provisions of this section and any rules promulgated pursuant thereto. All applications for permits shall be submitted to the commissioner in such form and shall contain such information as the commissioner shall prescribe.*

*b. Each permit shall be subject to such reasonable conditions as the commissioner may determine are necessary to protect public safety and to safeguard the interests of the city.*

*c. The commissioner may require that an applicant for a permit deposit cash and/or a bond or other form of security with the city in an amount which the commissioner determines may be necessary to cover and pay all of the expenses, costs and liability that the city may incur as a result of the activity for which the permit is to be issued, to insure prompt compliance with the terms and conditions of the permit or to otherwise safeguard the interests of the city.*

*d. The commissioner may suspend review of applications for permits pending (i) payment by an applicant of outstanding fines, civil penalties or judgments imposed or entered against such applicant by a court or the environmental control board pursuant to this subchapter, (ii) payment by an applicant of outstanding fees or other charges lawfully assessed by the commissioner against such applicant pursuant to this subchapter and/or (iii) satisfactory compliance by an applicant with a request for corrective action or order issued by the commissioner pursuant to this subchapter.*

*e. 1. The commissioner may, after giving the permittee notice and an opportunity to be heard, revoke or refuse to renew a permit:*

*(a) for failure to comply with the terms or conditions of such permit or the provisions of this subchapter or of section 24-521 of the code or the rules or orders of the department in carrying out the activity for which the permit was issued;*

*(b) whenever there has been any false statement or any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance of the permit was based; or*

*(c) whenever a permit has been issued in error and the conditions are such that the permit should not have been issued.*

*2. Notwithstanding the foregoing provision, if the commissioner determines that an imminent peril to life or property exists, the commissioner may revoke a permit without affording the permittee an opportunity to be heard prior to such revocation. The permittee shall have an opportunity to be heard, in accordance with the rules of the department, within five days after such revocation.*

*f. The commissioner may refuse to issue a permit to an applicant (i) who has exhibited a pattern of disregard for the provisions of this subchapter, of section 24-521 of the code, the rules or orders of the department in relation thereto or the terms or conditions of permits issued pursuant to such provisions, or (ii) who has been found liable by a court or in a proceeding before the environmental control board for a violation of any provision of this subchapter, of section 24-521 of the code, of a rule or order of the*

*department in relation thereto or of a term or condition of a permit issued pursuant to such provision, which violation caused an imminent peril to life or property.*

*g. The commissioner, consistent with article twenty-three-A of the correction law, may refuse to issue a permit if the applicant or any officer, principal, director or stockholder of such applicant owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which in the judgment of the commissioner has a direct relationship to fitness or ability to perform the activity for which the permit is required.*

*h. 1. If the commissioner finds that a permittee or any employee, agent, independent contractor or other person engaged in performing an activity for which a permit has been issued has violated the terms or conditions of such permit or any provision of this subchapter or of section 24-521 of the code relating to the activity for which the permit has been issued or any order issued by or rule promulgated by the commissioner pursuant thereto or that a condition exists in any street which is in violation of a provision of this subchapter or of section 24-521 of the code or any order issued by or rule promulgated by the commissioner pursuant thereto, unless the condition is an imminent threat to life or safety, the commissioner may (i) notify the permittee or other responsible person of the condition found by the commissioner to constitute such violation and request that action be taken to correct the condition in such a manner and within such period of time as shall be set forth in such request, and (ii) afford such permittee or other responsible person an opportunity to contest the commissioner's finding in a manner to be set forth in the rules of the department. The commissioner may assess a fee for the administrative expense and the expense of additional inspections which the department may incur as a result of such condition.*

*2. The provisions of this subdivision shall not be construed to limit the power of the commissioner to take any other action authorized pursuant to this subchapter with respect to any violation, including but not limited to, the commencement of an action or proceeding in a court or before the environmental control board or to require that the commissioner resort to the procedure set forth in this subdivision as a prerequisite to the commencement of an action or proceeding in a court or before the environmental control board or the taking of any other action authorized pursuant to this subchapter with respect to a violation.*

*i. As used in this section, the term "permit" includes a license.*

*§19-104 Revocable consents. The issuance of revocable consents by the commissioner pursuant to this subchapter shall be subject to the provisions of chapter fourteen of the charter and the rules adopted by the commissioner pursuant thereto.*

*§ 19-105 Rules. The commissioner may promulgate rules to carry out the provisions of this subchapter and the policies and procedures of the department in connection therewith.*

*§ [19-103] 19-106 Right of entry. The commissioner may enter in the day time upon any lands, tenements, hereditaments and waters which he or she shall deem necessary to be surveyed, used or converted, for the purpose of laying out and surveying streets, bridges, tunnels and approaches to bridges and tunnels [except such bridges and tunnels as cross navigable waters].*

*§ [19-104] 19-107 Temporary closing of streets. Except as otherwise provided by law, it shall be unlawful for any person to close any street, or a portion thereof, within the jurisdiction of the commissioner, to pedestrian or vehicular traffic without a permit from the commissioner. The commissioner may temporarily close or may issue a permit to temporarily close to pedestrian or*

*vehicular traffic [temporarily] any street, or a portion thereof, within his or her jurisdiction, when, in his or her judgment, travel therein is deemed to be dangerous to life, in consequence of there being carried on in such street activities such as building operations, repairs to street pavements, sewer connections, or blasting for the purpose of removing rock from abutting property or when such closure may be necessary for a public purpose.*

[§ 19-105 Unsafe conditions; notice. Whenever any person shall have authority, under any contract with the city or any officer thereof, or under any permit, to remove the pavement from or to excavate, occupy or use any part of a public street, so as to obstruct travel therein, he or she shall erect suitable notices of the obstructions in conspicuous positions, at all points of intersections of such street with the cross-streets nearest to the obstructions. Such notices shall be in the form prescribed by the department.]

*§ 19-108 Display of permit. A copy of any permit issued pursuant to this subchapter shall be kept on the site of the opening or use or at the designated field headquarters of the work with respect to which the permit was issued and shall be presented upon demand of a police officer or any authorized officer or employee of the department or of any other city agency.*

§ [19-106 Barriers, guards and lights. a. Barriers and guards. Every person engaged in digging down or paving any street, or building therein any sewer, drain or trench for any purpose, under a contract with the city or by virtue of any permit that may have been granted by any agency of the city, shall erect such a fence or railing about the excavation or works as shall prevent danger to persons traveling the street, and any such railing or fence shall be continued and maintained until the work shall be completed, or the danger removed.

b. Extent of enclosure. The extent to which such railing or fence shall be built in the several cases is hereby defined as follows:

1. In excavating any street or road, by placing the barrier along the upper bank of such excavation, or by extending the fence as far across the street as may be necessary to prevent persons from traveling on such portion as would be dangerous;

2. In paving any street, by extending such railing or fence across the roadway of such street, or, if but a portion of the width of such roadway be obstructed, across such portion, in which case the obstruction shall be so arranged as to leave a passageway through, as nearly as may be, of uniform width;

3. In building a sewer, by placing the barrier across the roadway at the ends of such excavation as shall be made;

4. In building vaults, by enclosing the excavation and the ground taken therefrom.

c. Lights. At twilight, there shall be placed upon each such railing or fence, and upon building materials, posts, poles, pipes or other obstructions in any street, suitable and sufficient lights, which shall be kept burning through the night during the existence of the obstruction.] 19-109 Protection at work site. a. Protective measures. Any person who removes, opens or otherwise disturbs the pavement of or excavates in a public street or uses any part of a public street so as to obstruct travel therein shall provide barriers, shoring, lighting, warning signs or other protective measures in accordance with the rules of the department, so as to prevent danger to persons and property, and such barriers, shoring, lighting, warning signs or other protective measures shall be maintained in accordance with such rules until the work shall be completed, or the danger removed.

*b. Required signs. Legible signs shall be displayed at the site of such work in accordance with the rules of the department, indicating thereon the name of the permittee, the name of the person for whom the work is being done and the names of any contractors, when employed.*

[d] c. Disturbance, prohibited. It shall be unlawful to throw down, displace or remove any barrier[, guard or railing,] *shoring, plate or warning sign* or to extinguish or remove any light thereon or on any obstruction in any street, without the written consent of the commissioner or without the consent of the person superintending the work or materials protected thereby.

[e. Restriction. It shall be unlawful for any person performing work authorized by this section, to stop up or obstruct more than the space of one continuous block and one intersection, at the same time, in any one street, or to keep the same so stopped up for more than two days after the roadway is finished, without first obtaining a special permit from the commissioner.

f. Application of section. The provisions of this section shall apply to every person engaged in building any vault, or constructing any lateral drain to any public sewer, or who shall do or perform any work causing obstruction in a public street, by virtue of any permit from any agency of the city, and also to all persons engaged in performing any work in behalf of the city, whereby obstructions or excavations shall be made in public streets. g. Enforcement of section. The commissioner shall enforce compliance with the provisions hereof, and he or she shall make immediate complaint to the corporation counsel of any violation thereof, under the penalty of fifty dollars for each and every neglect.]

§ [19-107] *19-110* Liability for damage. In all cases where any person shall [perform any of the work mentioned in section 19-106 of this title, either under contract with the city or by virtue of permission obtained from any agency of the city,] *engage in any activity for which a permit is required pursuant to this subchapter*, such person shall be [answerable] *liable* for any damage which may be occasioned to persons, animals or property by reason of [carelessness] *negligence* in any manner connected with the work.

[§ 19-108 Violations. Any person violating any provision of sections 19-104, 19-105, 19-106 and 19-107 of this title, upon conviction therefor, shall be punished by a fine of not more than one hundred dollars, imprisonment for not more than thirty days, or both.]

§ [19-109] *19-111* [Curbing] *Curbs*. All [curbing] *curbs* for the support of sidewalks hereafter to be laid shall be of the material or materials, dimensions and construction required in [standard] *department* specifications for such work, which shall be prescribed by the commissioner and kept on file in his or her office.

§ [19-110] *19-112* Ramps on curbs. In the construction and installation of all new and reconstructed curbs at corner located street intersections and pedestrian crosswalks not located at street intersections, provision shall be made for the installation of the following: two ramps at corners located at street intersections and one ramp at pedestrian crosswalks not located at street intersections. Such ramps shall be no less than four feet wide and shall blend to a common level with the roadway. If a common level is unobtainable, then the lip of such ramps shall not exceed a maximum of five-eighths of an inch and shall have a rounded edge. The slope of such ramp shall not exceed eight per cent. This section shall apply to all construction of new curbs and to all replacement of existing curbs. The commissioner shall have discretion to waive one of the two mandatory ramps at corners located at street intersections where any of the following obstacles exists preventing construction of such ramp within an intersection: fire hydrants, light poles, traffic signals, fire alarms, or free-standing police alarms, underground vaults, tunnels, [manholes] *utility maintenance holes (manholes)*, chambers or where the gradient of the street

on which the ramp is to be located or an intersecting street exceeds a gradient of 1:8. The commissioner may waive the construction of both such ramps where the existence of underground vaults, tunnels, [manholes] *utility maintenance holes (manholes)* and chambers would either prevent the safe construction of such ramps or render impossible the construction of such ramps to proper specifications without removal of said underground installations. A certification to such effect shall be made part of the engineering design documents for such construction, and a copy thereof shall be filed with the city clerk. Curbs for non-pedestrian routes, such as, but not limited to, service paths for highways and pedestrian restricted traffic islands shall not be subject to the provisions of this section.

[§ 19-111 Gutter stones.

a. Laying. All gutter stones hereafter laid shall be of the best hard blue stone or granite, at least thirty inches in length, fourteen inches in width and six inches thick, and shall be cut to a fair and level surface without windings, with true and parallel sides, and the ends square so as to form tight and close joints; under the penalty of ten dollars, to be sued for and recovered from the person or persons laying the same and owners of the lot fronting on the sidewalk or street, severally and respectively.

b. Regulating. If any street, when paved, shall not exactly range, the gutter or outside of the footpath or sidewalk shall be laid out and made as nearly in a straight line as the street will permit. The ascent and descent of the same shall be regulated by the commissioner, and a profile thereof, with the regulations distinctly marked therein, shall be deposited and kept in the office of the department.

§ 19-112 Violations. Any person convicted of a violation of any of the provisions of section 19-109 or 19-111 of this title shall be punished by a fine of not more than ten dollars, more than ten days, or both.]

§ 19-113 Construction generally. [All streets] *Streets* of twenty-two feet in width and upward shall have sidewalks on each side thereof [, the width,]. *The materials and construction [of which] of streets, including the width of the sidewalks thereon,* shall fully conform to [standard] *department* specifications for such work, all of which shall be prescribed by the commissioner and kept on file in his or her office.

§ 19-114 Excavations or embankments near landmarks. The commissioner shall cause a covenant to be incorporated in all contracts hereafter made by him or her for constructing, regulating or repairing any street, requiring the contractor to obtain the permit required pursuant to section 3-508 of the code and to take such other precautions for the care and preservation of monuments, bolts and other landmarks as the commissioner may direct.

§ 19-115 Paving, generally. All streets [of twenty-two feet in width and upward, and, when required to be paved by competent authority, all other streets and alleys of less width,] shall be paved and arched in full accordance with [standard] *department* specifications for such work, which shall be prescribed by the commissioner and kept on file in his or her office.

§ 19-116 Paving by abutting owners. [a. Any citizen or number of citizens shall be allowed] *The commissioner may issue a permit to allow any person or persons to pave the street opposite to his, her or their property, where the same shall extend from the intersection of one cross street to the intersection of another. Such work shall be done in conformity with the [regulations] rules and specifications of the commissioner and subject to such conditions as he or she may impose.*

[b. Any person convicted of a violation of any of the provisions of this section or section 19-115 of this title shall be punished by a fine of not more than five hundred dollars, imprisonment for not more than six months, or both.]

§ 19-117 Licensing of vaults. a. Limitation.

It shall be unlawful for any person to erect or build, or cause or permit any vault to be made[, except] *without a license issued by the commissioner pursuant to this section or a revocable consent issued pursuant to chapter fourteen of the charter and the rules adopted by the commissioner pursuant thereto.* All vaults shall be constructed in accordance with the provisions of the building code of the city of New York; and no vault shall extend]. *A license issued pursuant to this section shall not authorize the construction of a vault which extends further than the line of the sidewalk or curbstone of any street.*

b. Licenses. Every application for a license to erect a vault shall be in writing, signed by the person making the same, and shall state the intended length and width of such vault and the number of square feet of ground which is required therefor.

c. Compensation. Upon receiving such license the applicant therefor shall forthwith pay to the commissioner such sum as the commissioner shall certify in the license to be a just compensation to the city for such privilege, calculated at the rate of not less than thirty cents, nor more than two dollars, per foot, for each square foot of ground mentioned as required for such vault.

d. Measurement. In the case of a new vault, before the arching or covering thereof shall be commenced, the person to whom the license for such vault shall have been granted shall cause the same to be measured by a city surveyor. Such surveyor shall deliver to the commissioner, a certificate, signed by the surveyor, specifying the dimensions of the vault. The certificate shall be accompanied by a diagram showing the square foot area of the vault, including its sustaining walls, and indicating its location relative to the building and curb lines and to the nearest intersecting street corner. In the case of an existing vault, the person claiming the right to the use thereof shall furnish a like certificate and diagram in respect thereof, but in such case the measurement shall exclude the sustaining walls.

e. [Refundments] *Refunds.* If, from subsequent measurements, it shall appear that less space has been taken than that paid for, the licensee shall be entitled to receive a certificate from the commissioner showing the difference. Upon the presentation of such certificate of difference to the comptroller, the comptroller shall pay a rebate to the licensee, the amount of which shall be the difference in money between the space fee originally paid and the fee for space actually taken.

f. Unauthorized encroachments. If it shall appear that the vault or cistern occupies a greater number of square feet than shall have been so paid for, the owner thereof shall, in addition to the penalty imposed [by section 19-121 of this title] *for such violation pursuant to section 19-149 or 19-150 of this subchapter*, forfeit and pay twice the sum previously paid for each square foot of ground occupied by the vault over and above the number of square feet paid for as aforesaid.

g. Responsibility. The master builder who shall complete or begin the construction of a vault, and the owner or person for whom the same shall be excavated or constructed shall be subject to the provisions [.] *and payments [and penalties] of this section and sections 19-118, 19-119, and 19-120 [and 19-121] of this [title] subchapter and to the penalties for violations thereof, severally and respectively.*

h. Exemption. Openings over which substantial and securely fixed gratings of metal or other noncombustible material have been erected in accordance with the provisions of this section and sections 19-118, 19-119 and 19-120 of this [title] *subchapter*, shall be exempted from payment of fees for licenses for vaults, provided such openings be used primarily for light and ventilation, and provided such gratings are of sufficient strength to sustain a live load of three hundred pounds per square foot and are constructed with at least forty percent of open work.

§ 19-118 Construction. [a. Materials.] All vaults shall be constructed of materials conforming to the requirements of the building code of the city of New York, and so that the outward side of the grating or opening into the street shall be either within twelve inches of the outside of the curbstone of the sidewalk, or within twelve inches of the coping of the area in front of the house to which such vault shall belong.

[b. Completion of work. All vaults shall be completed and the sidewalk or other permitted covering over them shall be completed within three weeks after commencement of work.]

§ 19-119 Vault openings; protection of. It shall be unlawful for any person to remove or insecurely fix, or cause, procure, suffer or permit to be removed or to be insecurely fixed, so that the same can be moved in its bed, any grate or covering or aperture of any vault or chute under any street. However, the owner or occupant of the building with which such vault is connected, may remove such grate or covering for the proper purpose of such vault or chute. The opening or aperture shall be inclosed, while such grate or covering be removed, with a strong box or curb at least twelve inches high, firmly and securely made. Openings of more than two square feet of superficial area shall be inclosed at such times with strong railings not less than three feet high, to be approved by the commissioner. Such grates or coverings shall not in any case be removed until after sunrise of any day and shall be replaced before one-half hour after sunset.

§ 19-120 Vault covers must afford secure footing. [The police commissioner shall report to the commissioner the name and address of the owner or occupant of any store, dwelling or other building having a vault under the sidewalk in front thereof, the cover of which is broken or presents a slippery surface. Thereupon, the commissioner shall forthwith notify the owner or occupant to remove such covering as ordered by the commissioner pursuant to section 19-152 of this title within thirty days and substitute therefor another that will afford secure footing for pedestrians. The commissioner shall immediately report every violation of this section to the corporation counsel for appropriate action.] *The commissioner may order the removal and replacement of vault covers which are broken or present a slippery surface in the manner provided in the rules of the department.*

[§ 19-121 Violations. Any person who shall violate any provision of sections 19-117, 19-118, 19-119 and 19-120 of this title, or any notice or special direction issued thereunder, shall be subject to a penalty of one hundred dollars. Any person who shall maintain a vault contrary to the provisions of sections 19-117, 19-118, 19-119 and 19-120 of this title, shall be subject to a penalty of ten dollars for each day or part of a day the same shall be maintained.]

§ [19-122 Building material and equipment.] *19-121 Construction and excavation sites; storage of materials and equipment on street.* a. Permit.

[The commissioner shall have power to grant permits to builders to occupy not more than one-third of the roadway of any street with building material and equipment if, in his or her opinion, the interests and convenience of the public will not suffer thereby. At the time of placing such material or equipment in the street, the permit so granted shall forthwith] *It shall be unlawful for any person to obstruct, or cause to be obstructed, any portion of a street with construction materials or equipment, unless authorized by a permit issued by the commissioner.*

*b. Conditions. In addition to any other conditions which may be set forth in such permit or in the rules of the department, the following conditions shall apply:*

*1. Any permit granted pursuant to this section shall be posted in a conspicuous place on or near the*

material or equipment [and shall be kept there] *or kept on the site or in the designated field headquarters of the work with respect to which the permit was issued* so as to be readily accessible to inspection.

[b. Conditions.

1. Such permits shall provide expressly that they are given upon condition that the sidewalks and]

2. *Sidewalks, gutters, crosswalks and driveways* shall at all times be kept clear and unobstructed and [that] all dirt, *debris* and rubbish shall be promptly removed [from time to time by the person obtaining such permit. All such permits may be revoked by the commissioner, at pleasure.

2. Whenever a permit is issued for any building material or equipment under this section, the] *therefrom. The commissioner may authorize encumbrance of the sidewalk with equipment or material in a manner which will not prevent the safe passage of pedestrians on such sidewalk.*

3. *The* outer surface of such [building] *construction* material or equipment shall be clearly marked with high intensity fluorescent paint, reflectors, or other marking which is capable of producing a warning glow when struck by the headlamps of a vehicle or other source of illumination.

[3.] 4. All [building] *construction* material and equipment shall have printed thereon the name, address and telephone number of the owner thereof.

[c. Deposit. It shall be unlawful to grant any such permit to any builder unless, at the time such permit is granted, he or she shall have on deposit with the commissioner the sum of fifty dollars as a guarantee that he or she will promptly comply with the conditions of all permits which may be so granted, including the prompt removal of all dirt and rubbish placed upon the street from time to time, and also for the prompt removal of any building material or equipment placed upon any street thereunder, after the expiration or revocation of any such permit. The commissioner is authorized and empowered to use so much of the moneys so deposited as may be required to effect the prompt removal of such dirt or rubbish as may, from time to time, be left upon the streets by the person making the deposit, and also for the purpose of removing any building material or equipment which may remain thereon, after the expiration or revocation of any permit under which it was so placed. In case any such deposit shall become impaired or exhausted, through use by the commissioner in the removal of dirt, rubbish, or building material or equipment, the amount shall be made up immediately, to the sum of fifty dollars, on notice from the commissioner, and, in default thereof, all permits theretofore issued to the builder failing to comply with such notice shall be revoked, and no permit shall be thereafter granted to such builder until such deposit be made good. Any builder may at any time withdraw his or her deposit if at the time he or she holds no unexpired permits and has fully complied with all the conditions of all such permits. Otherwise he or she shall be entitled only to withdraw and receive as much of the deposit as may remain unexpended after the provisions of this section, relative to the use of such money for the removal of dirt, rubbish or building material or equipment, as the case may be, have been carried into effect.

b. Restrictions.

1.] 5. In a street upon which there is a *surface* railroad, *construction* materials or equipment shall not be placed nearer to the track than [two] *five* feet.

[2. In no case shall building material or equipment be placed upon, nor shall mortar, cement or other material be mixed upon, the pavement of a street paved with asphalt, asphalt block or wood, except

under a permit issued by the commissioner, which shall contain a provision that such pavement shall be protected by first laying planks thereon. The commissioner, or other officers issuing permits to builders to use the streets, shall insert in each such permit a clause requiring compliance with this provision.

c. Unauthorized obstructions. Whenever any wood, timber, stone, iron or other building material or equipment has been or shall be placed in or upon any street, without a permit, the commissioner shall forthwith cause the same to be taken up and removed.

d. Violations.

1. Any person who shall violate any provision of this section, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars for each and every day that the violation exists, or by imprisonment for ten days for each and every day that the violation exists, or by both such fine and imprisonment.

2. In addition, any person who violates the provisions of this section shall be subject to a civil penalty in the sum of one hundred dollars for each and every day the violation exists.]

6. *The street under such construction material or equipment shall be shielded by wooden planking, skids or other protective covering approved by the commissioner.*

7. *Construction material or equipment shall not obstruct a fire hydrant, bus stop or any other area as set forth in the rules of the department the obstruction of which would impair the safety or convenience of the public.*

*c. Removal of unauthorized obstructions. The commissioner may remove any construction material or equipment placed in or upon any street in violation of this section, the rules of the department or the terms or conditions of a permit issued pursuant to this section. If the identity and address of the owner is reasonably ascertainable, notice of the removal shall be sent to the owner within a reasonable period of time after the removal. If such material or equipment is not claimed within thirty days after its removal, it shall be deemed to be abandoned. If the equipment is a vehicle, its disposition shall be governed by section twelve hundred twenty-four of the vehicle and traffic law. All other unclaimed material or equipment may be sold at public auction after having been advertised in the City Record and the proceeds paid into the general fund or such unclaimed material or equipment may be used or converted for use by the department or by another city agency or by a not-for-profit corporation engaged in the construction of subsidized housing. Material or equipment removed pursuant to this subdivision shall be released to the owner or other person lawfully entitled to possession upon payment of the costs of removal and storage as set forth in the rules of the department and any fines or civil penalties imposed for the violation or, if an action or proceeding for the violation is pending in court or before the environmental control board, upon the posting of a bond or other form of security acceptable to the department in an amount which will secure the payment of such costs and any fines or civil penalties which may be imposed for the violation.*

§ [19-123] 19-122 Removal of debris. Any person other than the commissioner of environmental protection [or the commissioner of general services], who may hereafter pave or cause to be paved any street, shall [have the] *remove the sand, dirt [or], rubbish or debris [cleaned off such] from such* street and every part thereof, within [twelve] *seven* days after the pavement shall have been completed [, under a penalty of twenty-five dollars for each violation of this provision].

In addition [thereto] *to any penalties which may be imposed for violation of this section, the*

commissioner [of transportation shall] *may* cause [the] *such sand, dirt, rubbish or debris* [thereof] to be removed at the expense of the party neglecting or refusing so to do, who shall be liable [in an appropriate action at law for the recovery of] *for* the amount expended by the city. This section shall be so construed as to apply to the removal of all sand, dirt [or], *rubbish or debris* collected in any part of any and all streets covered by any pavement so done or laid, or excavation that may have been made, or other work done in pursuance thereof. [No account for paving, in pursuance of this section, shall be accepted as completed unless the city official making the contract shall certify that this section has been fully complied with.]

*§ 19-123 Commercial refuse containers. It shall be unlawful for any person using a commercial refuse container or the owner or lessee thereof to place or to permit the placement of such container on any street unless the owner of such container has obtained a permit therefor from the commissioner and unless such container is in compliance with the provisions of this section and the rules of the department in relation thereto. Commercial refuse containers may be placed temporarily on the street for such purposes and in such manner as the commissioner shall prescribe. Such containers shall not be used for the deposit of putrescible waste. The name and address of the owner of the container and the permit number shall be posted on the container in the manner provided in the rules of the department. The container shall be painted with a phosphorescent substance, in a manner to be set forth in the rules of the department, so that the dimensions thereof shall be clearly discernible at night. The street under such container shall be shielded by wooden planking, skids or other protective covering approved by the commissioner. The provisions of this section which require the owner of a container to obtain a permit prior to the placement of such container on the street shall not apply to containers which are specifically authorized to be placed on the street under a permit issued pursuant to section 19-121 of this subchapter.*

*§ 19-124 Canopies. a. [Canopies may be erected and maintained over the sidewalk, as follows, provided a permit therefor has been issued by the commissioner] Permit required. It shall be unlawful to erect or maintain a canopy over the sidewalk without a permit granted by the commissioner, and unless such canopy is erected and maintained in accordance with this section and the rules of the department. Such canopies may be erected and maintained:*

1. In connection with the entrance to a building or place of business within a building by or with the consent of the owner of the building.

2. In connection with a sidewalk cafe [license] *licensed* by the commissioner of consumer affairs. [For the purposes of this section, a canopy is a sidewalk covering]

*Such canopies shall be constructed of a noncombustible frame, covered with flameproof canvas or cloth, approved slow-burning plastic, sheet metal or other equivalent material, securely fastened to the face of the building and supported by posts in the ground or in the sidewalk, located between the building line and the curb line, and not less than eight feet above the sidewalk.*

b. [Permits] *Permit conditions.* A permit may be issued by the commissioner to erect and maintain a canopy over the sidewalk of any street, in accordance with the rules [and regulations] of the department if deemed by the commissioner as adequate in respect to public safety and convenience and the special circumstances of the particular street or streets. Evidence of the issuance of such permit in a form prescribed by the commissioner shall be displayed at all times and in such manner as the commissioner may direct. No such permit may be issued in streets listed as "restricted streets" in the rules [and regulations] of the department, nor where such permit would extend a nonconforming use in a residence district, as defined by the zoning resolution of the city.

c. Permit fees. Prior to the issuance of such permit, each applicant shall pay to the commissioner an annual fee [of fifty dollars] *as set forth in the rules of the department*, except that the fee for a permit for a canopy in connection with a sidewalk cafe licensed by the commissioner of consumer affairs shall be twenty-five dollars.

d. Term; transferability.

1. Each permit shall expire [on the twenty-eighth day of February next succeeding] *one year from* the date of issuance thereof unless sooner revoked by the commissioner.

2. A permit issued hereunder shall not be transferable from person to person or from the location for which it is originally issued.

e. Advertising prohibited. It shall be unlawful to paint, print, stencil or otherwise erect, attach or maintain any advertising sign, picture, flag, banner, side curtain or other device upon any canopy except that it shall be lawful to paint, imprint or stencil directly upon a canopy, within the character and area limitations prescribed by the zoning resolution of the city, the house or street number and/or firm name or duly filed trade name limited to identification and excluding any descriptive words contained in such firm name or duly filed trade name tending to advertise the business conducted in such premises.

f. Obstructing of egress prohibited. No part of any canopy shall be located beneath a fire escape or so located as to obstruct operation of fire escape drop ladders or counter-balanced stairs or so as to obstruct any exit from a building.

g. Violations.

[1. Any person who shall violate any provision of this section, or refuse or neglect to comply with any rule, regulation or order thereunder, upon conviction thereof, shall be guilty of an offense punishable by a fine of not less than ten dollars nor more than one hundred dollars for each and every day that the violation exists or by both such fine and imprisonment.

2. In addition, any person who shall violate the provisions of this section or refuse or neglect to comply with any rule, regulation or order thereunder, shall be subject to a civil penalty in the sum of one hundred dollars for each and every day the violation exists. 3. For the purposes of this section, the word "persons" shall include the] *The owner or agent of any building and the owner, lessee, tenant, manager or agent in charge of any portion of a building [or] for the use or benefit of which an awning or canopy is erected or maintained shall be liable for a violation of this section.*

h. Rules [and regulations]. The commissioner may, except as otherwise provided by law, make rules [and regulations] for the design, construction and maintenance of canopies within the lines of any street and for the removal, storage and disposal of unauthorized canopies as he or she may deem necessary for the safety and convenience of the public[, provided such rules and regulations shall not become effective until filed with the city clerk and published in the City Record in the manner provided by law]. i. Removal of unauthorized canopies.

1. Notwithstanding any provision of law the commissioner may serve [written notice] *an order* upon the owner of any premises requiring such owner to remove or to cause to be removed any unauthorized canopy fastened to or erected in front of his or her building, within a period to be designated in such [notice] *order*. Upon the owner's failure to comply with such [notice or] order as and within the time specified therein, the department may remove such canopy or cause the same to be removed, the cost of

which shall be due and payable and shall constitute a lien against the premises to which such canopy may be attached or in front of which it may be erected when the amount thereof shall have been definitely computed by such department and an entry of the amount thereof shall have been entered in the office of the city collector in the book in which such charges against the premises are to be entered. A notice thereof, stating the amount due and the nature of the charge shall be mailed by the city collector, within five days after such entry, to the last known address of the person whose name appears on the records in the office of the city collector as being the owner or agent or as the person designated by the owner to receive tax bills, or where no name appears, to the premises addressed to either the owner or the agent. If such charge is not paid within ninety days from the date of entry, it shall be the duty of the city collector to collect and receive interest thereon at the rate [of seven percent per annum] *that would be applicable to a delinquent tax on such property*, to be calculated to the date of payment from the date of entry. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises. Such charge and interest shall be collected and the lien thereof may be foreclosed in the manner provided by law for the collection and foreclosure of the lien of such taxes, sewer rents, sewer surcharges and water rents due and payable to the city, and the provisions of law applicable to the collection and foreclosure of the lien of such taxes, sewer rents, sewer surcharges and water rents shall apply to such charge and the interest thereon and the lien thereof.

2. [The cost incurred pursuant to paragraph one of subdivision i of this section by the department shall be paid initially out of the real property fund upon authorization of the board of estimate.

All sums received or collected in reimbursement of such cost pursuant to paragraph one of subdivision i of this section, including interest and penalties thereon, shall be paid into the real property fund.

3.] Service of [a notice or] *an* order upon an owner pursuant to the provisions of this section shall be made personally upon such owner or by certified mail addressed to the last known address of the person whose name appears upon the records in the office of the city collector as being the owner of the premises or as the agent of such owner or as the person designated by the owner to receive the tax bills or, if no such name appears, at the address set forth as the address of the owner in the last recorded deed with respect to such premises. A copy of such [notice or] order shall also be filed in the clerk's office of each county where the property is situated and posted in a conspicuous place on the premises.

[§ 19-125 Paving material.

a. It shall be unlawful for any contractor engaged in the pavement or repavement of any street, to incumber with any material the sidewalks on any such street, except under the authority and license of the commissioner. Such commissioner is authorized, in his or her discretion, to grant permits for such purpose. No such permission shall be given for a space exceeding eight hundred feet in length, or a width that will obstruct or incumber the use of such sidewalks by pedestrians.

b. Violations. Any person who shall violate any provision of this section, upon conviction thereof, shall be punished by a fine of not more than twenty-five dollars, or imprisonment for thirty days, or both.]

§ [19-126] 19-125 Posts and poles. a. General provisions. It shall be unlawful for any person to erect any post or pole in any street unless under a permit *or revocable consent* of the commissioner.

[1.] *b. Flagpole sockets.* It shall be permissible, by and with [the consent of] *a permit* of the commissioner and *with the permission* of the owners of abutting property, for any organization of military, naval and marine war veterans to place in sidewalks near the curb, at suitable distances apart, sockets to be used only for the placing therein of stanchions or poles on which to display American flags

to be used on patriotic occasions, public celebrations, or in connection with public parades.

[b.] c. Barber poles. [Barber] *The commissioner may grant permits for the placement of barber poles, not exceeding eight feet in height above the sidewalk level, and other emblematic signs[, may be placed] within the stoop-lines or fastened to the railing of any stoop, by or with the consent of the occupant of the ground floor thereof, but not beyond five feet from the house line or wall of any building where the stoop-line extends further, except on streets where the stoop-lines have been abolished [by the board of estimate].*

[c.] d. Ornamental lamp-posts. [Ornamental] *It shall be permissible by and with a revocable consent granted by the commissioner and with the permission of the owner of the abutting property to install ornamental posts, surmounted by lamps, [may be erected within stoop-lines and] on sidewalks, near the curb in front of hotels, [churches] places of worship, theatres, railroad stations, [and] places of business, apartment houses and places of public assemblage[, in any street]. No such post shall exceed in dimensions at the base more than eighteen inches in diameter, if circular in form, [and] or, if upon a square base, no side thereof shall exceed eighteen inches. [One of the lamps, to be] Each bulb installed and maintained on each of the lamp-posts to be erected[,] shall be lighted and remain lighted every night, during the hours [prescribed for] in which public street lamps are illuminated. The [work to be done and illuminant] installation and maintenance of such poles and lamps and the power supplied shall be at the expense of the person [maintaining such posts and lamps] to whom the consent is granted.*

[§ 19-127 Violations. Any person convicted of a violation of any of the provisions of section 19-126 of this title shall be punished by a fine of not more than ten dollars, imprisonment for not more than ten days, or both.]

§ [19-128] 19-126 [House, steam shovel] *Building, structure and crane moving. a. It shall be unlawful for any person to use, move, or remove, or to cause or permit to be used, moved or removed, or to aid or assist in using, moving or removing, any building, structure, or crane, used in connection with the construction, repair or demolition of buildings or other structures within the building line[, or steam shovel, or shovel using steam or other motive power,] into, along or across any street, without a permit from the commissioner. [The penalty shall be two hundred fifty dollars for each offense.]*

b. [The commissioner is authorized to grant such permits, taking in each case a proper bond to secure the city against loss or damage incident to such using, moving or removing.

c.) The applicant for such a permit, where there are car tracks or overhead wire construction, must obtain and file with the application the consent of the company affected.

§ [19-130] 19-127 [To propel, push or pull] *Use of hand trucks on the [sidewalks] streets. [1.] It shall be unlawful for any person to [push, pull or propel] use hand trucks for commercial purposes [, in the streets or sidewalks] upon any street unless each hand truck shall have attached thereon a sign or plate displaying the name and address of the owner of the hand truck, in letters not less than one inch in size.*

[2. Violation: Any person or persons who shall violate the provisions of this section, upon conviction thereof, shall be guilty of an offense thereof, punishable by a fine of not more than twenty-five dollars or imprisonment of five days, or both.]

§ [19-131] 19-128 Public telephone booths. a. It shall be unlawful to install or maintain a public telephone booth on any street without a license therefor.

b. Such license may be issued by the commissioner, in his or her discretion, and, if within six feet of the building line, with the consent of the owner of the abutting premises. All licenses shall be according to an established form and shall be regularly numbered and duly registered, and shall contain such conditions as are reasonable and proper, including conditions with respect to the removal of such booths. Each license shall continue in effect until revoked by the commissioner, in his or her discretion.

c. No license shall be issued for the installation or maintenance of such a booth in any location where it will unreasonably interfere with the use of the street by the public, or where it will unreasonably interfere with the use of the abutting property.

d. No fee shall be charged for such a license but the telephone company shall pay to the city its standard public telephone commissions on revenues derived from any public telephone maintained under such a license.

§ [19-132 Boardwalks] *19-129 Board or plank walks.* It shall be unlawful for any person to construct or lay down in any street, a board or plank walk, except sidewalk bridges as defined in section 27-1021 of the code, without [the written permission of] *a permit from* the commissioner.

[§ 19-133 Subway gratings; sweeping into. It shall be unlawful for any person to sweep any substance from a sidewalk or other place into a grating used for the purpose of ventilating any subway railroad.

#### § 19-134 Violations.

a. Any person who shall violate any of the provisions of sections 19-113, 19-147, 19-148, 19-132 and 19-120 of this title, shall be subject to a penalty of fifty dollars for each offense. Such person shall be subject to an additional penalty of five dollars for each day such violation is continued.

b. Any person who shall willfully violate or neglect or refuse to comply with any provision of such sections or any lawful regulation, order or special direction made thereunder, may also, upon conviction thereof, be punished by a fine of not more than fifty dollars, imprisonment for not exceeding thirty days, or both.]

§ [19-135] *19-130 Balustrades.* It shall be unlawful for any person to place or to expose to show or for sale, upon any balustrade that now is or hereafter may be erected upon any street, any goods, wares, merchandise or manufacture of any description.

§ [19-137] *19-131 Restrictions on Clinton avenue.* a. The two strips of land, each twenty feet in width, which were added to each side of Clinton avenue in the borough of Brooklyn between Gates avenue and Willoughby avenue pursuant to chapter two hundred fifty-seven of the laws of eighteen hundred ninety-nine shall not be added to the traveled portion of Clinton avenue, but shall be reserved and preserved as ornamental courtyards for the benefit and improvement of such avenue.

b. Any building erected and completed before the first of March in the year eighteen hundred ninety-nine, or before that date so far erected that its foundations or walls were carried up so far as the level of the street, and any piazza or appurtenant structure erected before such date may remain or be completed with all rights as though this section had not been passed; but in case any such building is destroyed, or removed from such courtyard space, the right reserved therefor shall be at an end.

c. The several parts of such court-yard space as adjoin the several lots fronting thereon may be used and occupied by the owners of such lots respectively for the following purposes:

1. Grass, shade trees, shrubbery, statuary, fountains, walks, paths, pavements, sewer, gas, electric and other house connections, and low ornamental fences, and
2. Ingress and egress, and
3. Stoops, porches and piazzas, provided they are open at either end and are not less than ten feet from the line of such avenue as established prior to the enactment of chapter two hundred fifty-seven of the laws of eighteen hundred ninety-nine, and
4. Steps and approaches to a house, provided they are in usual form and do not interfere with the general intent of this section, and
5. Such other purposes as are usual and proper for a plot fronting on a street and appurtenant to a residence, hotel, apartment house or other dwelling-house.

d. Nothing shall be erected, done or allowed on such court-yard space, that will interfere with its open and ornamental character, or that is not in accordance with the above uses and purposes.

e. This section shall not affect the title, or the right to possession of the several lots or plots of land in such two strips of land, except as the use thereof is limited and restricted as provided in this section.

§ [19-138] 19-132 Restrictions on First place, Second place, Third place and Fourth place in the borough of Brooklyn. The buildings to be erected upon the lots fronting upon first place, second place, third place and fourth place in the borough of Brooklyn, shall be built on a line thirty-three feet five inches and a quarter of an inch back from the sides or lines of such places as they are now established by the map of the city, and the intervening space of land shall be used for courtyards only.

§ [19-140] 19-133 Removal of unauthorized projections and encroachments. a. The commissioner may serve [written notice] *an order* upon the owner of any premises requiring such owner to remove or alter any unauthorized projection or encroachment, on or in front of his premises, within a period to be specified in such [notice] *order*. Such [notice] *order* shall be served personally, or by leaving it at the house or place of business of the owner, occupant or person having charge of the house or lot in front of which the projection or encroachment may be, or by posting such [notice or] order thereon.

b. At any time after the expiration of the time specified for that purpose in the [notice] *order*, if such encroachment or projection shall not then have been removed or altered, the commissioner may[, by notice or order, direct and] *remove or alter or* cause such encroachment or projection to be removed or altered at the expense of the owner or constructor thereof, who shall be liable to the city for all expenses that it may incur by such removal or alteration, together with the penalties prescribed by [section 19-144 of this title] *this subchapter for the violation of such order*, to be recovered with costs of suit.

c. 1. In addition to [the] *any other remedies* [herein provided] *or penalties*, whenever such removal, alteration, repair and restoration is undertaken by the commissioner he or she may certify separately the costs and expense of such removal, alteration, repair and restoration to the commissioner of finance. The commissioner of finance shall, upon the certificate of the commissioner, charge the amount of such costs and expenses against the property upon and with respect to which the work was performed. Every such charge shall be a lien upon the property or premises in respect to which the same shall have been made, which lien shall have priority over all other liens and incumbrances except taxes and assessments for other public or local improvements, sewer rents, water rents and interest or penalty thereon levied or charged pursuant to law. Such lien shall be enforced in all respects in the manner provided by law for

the enforcement of liens of taxes, assessments, sewer rents and water rents and interest or penalties thereon. [The costs and expenses of such removal, alteration, repair and restoration undertaken by the commissioner pursuant to paragraphs one and two of this subdivision shall be paid for from the real property fund and the amount of such costs and expenses collected pursuant to the provisions of this paragraph shall be paid into the real property fund.]

2. As an alternative to the remedy prescribed in paragraph one of this subdivision, the commissioner may in his or her discretion institute, through the corporation counsel, any appropriate action or proceeding at law against such owner for the recovery of the costs and expenses of such removal, alteration, repair and restoration, undertaken by the commissioner, as provided herein.

[3. The commissioner may, in his or her discretion, let contracts, in the manner provided by law for the letting of contracts for public works, for the removal or alteration of such encroachments or projections, including therein any incidental work for repair and restoration of the sidewalk or area affected, or may include such item of removal, alteration, repair and restoration as additional work in an existing contract affecting the area in accordance with the provisions of section 6-110 of the code. In the event that such removal is necessary to the carrying out of a capital project, the mayor may authorize the inclusion of such item of removal, alteration, repair and restoration in the contract or contracts for such capital project.]

§ [19-141] *19-134* Certain extensions and projections not removable. a. If the front or other exterior wall of any building standing on the twenty-fifth day of May, eighteen hundred ninety-nine in the county of New York as then constituted, shall extend ten inches or less upon any street, such wall shall be removable, only if an action or proceeding for the removal of such wall was instituted by or in behalf of the city within the period of one year from such date, and notice of pendency of such action or proceeding was duly filed in the office of the clerk of the county of New York, and duly indexed against the owner and the premises. If a structure, or part of a building standing on the thirteenth day of May, eighteen hundred ninety-six, in such county, known as a bay-window or oriel window, shall extend twelve inches or less upon any street, such structure shall be removable only if an action or proceeding for its removal was instituted by or in behalf of the city within one year from such date, and notice of pendency of such action or proceeding was duly filed in the office of the clerk of the county of New York, and duly indexed against the owner and the premises.

b. If the front or other exterior wall of any building standing on the seventeenth day of May, eighteen hundred ninety-seven in the city of Brooklyn, as then constituted, shall extend four inches or less upon any street, such wall shall be removable only if an action or proceeding for the removal of such wall was instituted by or in behalf of the city of Brooklyn or its successor, within the period of one year from such date, and notice of pendency of such action or proceeding was duly filed in the office of the clerk of the county of Kings, and duly indexed against the owner of the premises.

§ [19-142] *19-135* Projections prohibited. It shall be unlawful to build, erect or make areas, steps or other projections (except those indicated in subdivisions a, b, c, d and f of section 27-313 of the code) beyond the building line, upon the following streets:

1. Grand Boulevard and Concourse, in the borough of The Bronx, between East One hundred sixty-first street and Mosholu Parkway.

[a.] Exception. In that section of the Grand Boulevard and Concourse located within a business use district, areas (meaning open spaces below the ground level immediately outside of the structure and enclosed by substantial walls) may project beyond the building line at most one-fifteenth of the width of

the street or a maximum of five feet, provided that every such area is covered over at the street level by an approved grating of metal or other incombustible material of sufficient strength to carry safely the pedestrian street traffic.

2. Newkirk avenue, between Flatbush avenue and Coney Island avenue, in the borough of Brooklyn, and on all streets in the borough of Brooklyn where projections are prohibited by law.

[§ 19-143 Notification to corporation counsel. The commissioner shall present and report all encroachments on the streets, which may be brought to his or her notice, to the corporation counsel.

§ 19-144 Penalties. Any person who shall violate any of the provisions of sections 19-140, 19-142 and 19-135 of this title, or fail to comply therewith or any requirement thereof, or shall violate or fail to comply with any official order or regulation made thereunder, or who shall build in violation of any detailed statement or specifications or plans submitted, and approved thereunder, or of any certificate or permit issued thereunder, for each and every such violation and noncompliance, respectively, shall forfeit and pay a penalty in the sum of fifty dollars. If any such violation shall be removed or be in process of removal, within ten days after the service of a notice made and served as prescribed by section 27-233 of this title, the liability of such penalty shall cease and the corporation counsel, on request of the commissioner of buildings having jurisdiction, shall discontinue any pending action to recover the same. Any person who, having been so served with a notice to remove any violation, or to comply with any requirement of sections 19-140, 19-142 and 19-135 of this title, or with any order or regulation made thereunder, shall fail to comply with such notice, within ten days after service thereof, or who shall continue to violate any requirement of sections 19-140, 19-142 and 19-135 of this title, in the respect named in the notice, shall pay a penalty of two hundred fifty dollars.]

§ [19-145] 19-136 Obstructions. a. It shall be unlawful for any person to hang or place any goods, wares or merchandise, or suffer, maintain or permit the same to be hung or placed, at a greater distance than three feet in front of his or her house, store or other building and a greater height than five feet above the level of the sidewalk, or to lease or permit any other person to use any space on the sidewalk located adjacent to such house, store or other building for the purpose of selling or displaying any merchandise.

1. Such an obstruction is hereby forbidden in front of a house, store or other building facing any street market, except upon a permit from the commissioner of [ports and terminals] *business services*.

2. Wares or merchandise in process of loading, unloading, shipment, or being received from shipment, may be transferred from trucks or other vehicles over the sidewalk by the use of skids, or by backing up trucks on the sidewalks while so doing.

3. Household furniture may be temporarily placed on a sidewalk for the purpose of loading or unloading the same, during daylight and without unreasonable delay; but, in any such case a passageway shall be kept open within the stoopline of the building, abutting on the sidewalk so obstructed, for the free movement of pedestrians.

4. Storekeepers and peddlers may sell and display coniferous trees during the month of December and palm branches, myrtle branches, willow branches, and citron during the months of September and October on a sidewalk; but in any such case the permission of the owner of the premises fronting on such sidewalk shall be first obtained and a passageway shall be kept open on the sidewalk so obstructed for the free movement of pedestrians.

5. Such an obstruction is hereby forbidden on Mermaid avenue between West 17th street and West 37th

street, of the borough of Brooklyn.

6. Such an obstruction is hereby forbidden on all sidewalks less than ten feet in width in the fifth ward of the borough of Queens.

7. Such an obstruction is hereby forbidden from the building line on Avenue U between Coney Island avenue and Stuart street in the borough of Brooklyn.

8. Such an obstruction is hereby forbidden from the building line on Steinway street between 34th avenue and Astoria boulevard south in the borough of Queens. 9. Such an obstruction is hereby forbidden from the building line on 31st street between 23rd avenue and 21st avenue in the borough of Queens.

10. Such an obstruction is hereby forbidden from the building line on Ditmars boulevard between 28th street and Steinway street in the borough of Queens.

11. Such an obstruction is hereby forbidden from the building line on 23rd avenue between 28th street and Steinway street in the borough of Queens.

12. Such an obstruction is hereby forbidden from the building line on 30th avenue between 25th street (Crescent street) and 45th street in the borough of Queens.

13. Such an obstruction is hereby forbidden from the building line on 31st avenue between 25th street (Crescent street) and 45th street in the borough of Queens.

14. Such an obstruction is hereby forbidden from the building line on Broadway between 25th street (Crescent street) and 45th street in the borough of Queens.

15. Such an obstruction is hereby forbidden from the building line on 71st avenue between Queens boulevard and Burns street in the borough of Queens.

16. Such an obstruction is hereby forbidden from the building line on Austin street between Ascan avenue and Yellowstone boulevard in the borough of Queens.

17. Such an obstruction is hereby forbidden from the building line on Queens boulevard between Union turnpike and 63rd drive, in the borough of Queens.

18. Such an obstruction is hereby forbidden from the building line on 63rd drive between 9th street and Alderton street in the borough of Queens.

19. Such an obstruction is hereby forbidden from the building line on Myrtle avenue between Wyckoff avenue and Cooper avenue in the borough of Queens.

20. Such an obstruction is hereby forbidden from the building line of Fresh Pond road between Myrtle avenue and Metropolitan avenue in the borough of Queens.

21. Such an obstruction is hereby forbidden from the building line on Jamaica avenue between 177th street and Queens boulevard in the borough of Queens.

22. Such an obstruction is hereby forbidden from the building line on 165th street between 177th street

and Queens boulevard in the borough of Queens.

23. Such an obstruction is hereby forbidden from the building line on New York boulevard between Archer avenue and Jamaica avenue in the borough of Queens.

24. Such an obstruction is hereby forbidden from the building line on Farmers boulevard between Liberty avenue and Merrick boulevard in the borough of Queens.

25. Such an obstruction is hereby forbidden from the building line on Montague street and the Promenade in the borough of Brooklyn.

26. Such an obstruction is hereby forbidden from the building line on Fulton street from Flatbush avenue to Adams street in the borough of Brooklyn.

27. Such an obstruction is hereby forbidden from the building line on Manhattan avenue from Greenpoint avenue to Nassau avenue, in the borough of Brooklyn.

b. It shall be unlawful for any person, directly or indirectly, to use any portion of a sidewalk or courtyard, established by law, between the building line and the curb line for the parking, storage, display or sale of motor vehicles.

c. 1. Except as otherwise hereinafter provided, in addition to the streets designated pursuant to subdivision a of this section, such an obstruction shall be prohibited on any street at such time where either general vending or food vending has been prohibited by local law or by the commissioner of consumer affairs pursuant to section 20-465 of this code.

2. The commissioner of consumer affairs may, after a public hearing, determine that in specified areas of the city the provisions of subdivision a of this section or paragraph one of this subdivision which prohibit such obstructions shall not apply. In making such a determination, such commissioner shall consider (a) whether such obstructions are intrinsic to the operation of businesses within such areas and such businesses constitute an essential part of the unique historical and commercial nature of such area and (b) the measures which shall be taken to ameliorate the danger to the public health, safety and welfare in such areas which may be caused, in whole or in part, by the maintenance of such obstructions. Such commissioner may from time to time and after a public hearing review, modify or revoke such determinations. A determination by the commissioner pursuant to this paragraph shall be effective upon the report of such determination to the council and the approval of such determination by the council pursuant to local law.

3. Notice of any hearing held pursuant to paragraph two of this subdivision shall be published in the City Record and shall be mailed to each affected community board and the department of city planning not less than thirty days prior to the date of such hearing.

4. On the following streets where general vending has been prohibited by the commissioner of consumer affairs pursuant to subdivision 1 of section 20-465 of this code, the provisions of paragraph one of this subdivision shall not apply:

(a) Thirteenth avenue between 39th street and 44th street in the borough of Brooklyn;

(b) Newkirk Plaza between Foster avenue and Newkirk avenue in the borough of Brooklyn;

- (c) Eighty-sixth street between Bay Parkway and 23rd avenue in the borough of Brooklyn;
- (d) West 4th street between Sixth avenue and Seventh avenue in the borough of Manhattan;
- (e) Delancey street between Orchard street and Essex street in the borough of Manhattan.

5. The provisions of subdivision a of this section which prohibit the hanging or placement of any goods, wares or merchandise in front of a house, store or other building shall not apply to the following streets:

- (a) Delancey street between Essex street and Allen street in the borough of Manhattan, provided that no goods, wares or merchandise be hung or placed at a greater distance than seven feet in front of a house, store or other building or a greater height than five feet above the level of the sidewalks;
- (b) Rivington street between Essex street and Allen street in the borough of Manhattan, provided that no goods, wares or merchandise be hung or placed at a greater distance than five feet in front of a house, store or other building or a greater height than five feet above the level of the sidewalk;
- (c) Essex street between Delancey street and Stanton street in the borough of Manhattan, provided that no goods, wares or merchandise be hung or placed at a greater distance than five feet in front of a house, store or other building or a greater height than five feet above the level of the sidewalk;
- (d) Orchard street between Delancey street and Houston street in the borough of Manhattan, provided that no goods, wares or merchandise be hung or placed at a greater distance than five feet in front of a house, store or other building or a greater height than five feet above the level of the sidewalk;
- (e) Avenue of the Americas between 25th street and 30th street in the borough of Manhattan, provided that no goods, wares or merchandise be hung or placed at a greater distance than three feet in front of a house, store or other building or at a greater distance than five feet from the curb towards the building line or a greater height than five feet above the level of the sidewalk.

d. In any area where such obstructions are not prohibited pursuant to the provisions of this section, the use of the public space for the display of goods, wares or merchandise shall, in addition to the restrictions set forth in subdivision a of this section, be subject to the following additional restrictions:

1. Except as otherwise provided in paragraph four of subdivision a of this section, only the goods, wares or merchandise of a commercial establishment which is located adjacent to such public space may be displayed in such public space.

2. Except as otherwise provided in paragraph four of subdivision a of this section, the goods, wares or merchandise displayed in the public space shall be of the same type or kind which are displayed within the premises of the commercial establishment located adjacent to such space.

e. 1. Where exigent circumstances exist and a police officer or other authorized officer or employee of any city agency gives notice to any person who displays any goods, wares or merchandise pursuant to subdivision a of this section to temporarily remove or otherwise disassemble such display, such person shall comply with such notice and shall not continue to maintain such display. For the purposes of this subdivision, exigent circumstances shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, the existence of obstructions in the public space, and accident, fire or other emergency situation, a parade, demonstration or other such event at or near the location of such stand.

2. If any person who displays any goods, wares or merchandise pursuant to subdivision a of this section does not remove or otherwise disassemble such display when directed to do so by a police officer or other authorized officer or employee of the city in accordance with the provisions of paragraph one of this subdivision, such officer or employee is authorized to provide for the removal of such person's goods, wares or merchandise and such display to any garage, automobile pound or other place of safety, and the owner or other person lawfully entitled to the possession of such goods, wares and merchandise and such display may be charged with reasonable costs for removal and storage payable prior to the release of such goods, wares or merchandise and such display.

f. In the event that any seizure made pursuant to this section shall include any perishable items or food products which cannot be retained in custody without such items or food products becoming unwholesome, putrid, decomposed or unfit in any way, they may be delivered to the commissioner of health for disposition pursuant to the provisions of section 17-323 of the code.

g. Any person who sells or displays or who permits the sale or display of any goods, wares or merchandise in a public space in violation of any of the provisions of this section shall be considered to be an unlicensed general vendor or an unlicensed food vendor and shall be subject to the penalty and enforcement provisions of either subchapter twenty-seven of chapter two of title twenty or subchapter two of chapter three of title seventeen of this code, whichever is applicable. *The provisions of sections 19-149, 19-150 and 19-151 shall not apply to such violations.*

h. In addition to police officers, officers and authorized employees of the department, the department of consumer affairs, the department of health, and the department of sanitation shall have the power to enforce the provisions of this section relating to the sale and display of goods, wares or merchandise in the public space.

i. The provisions of this section shall not be construed to apply to obstructions authorized in connection with temporary activities conducted under any permit issued by the city or any agency thereof.

§ [19-146] 19-137 Land contour work. a. As used in this section.

1. The term "land contour work" means clearing, grubbing, grading, filling or excavating vacant lots and other land areas but does not include minor work which does not change surface drainage patterns.

2. The term "clearing" means removing surface encumbrances from a land area, including but not limited to fences, trees, logs, stumps, brush, stones, vegetation and earth.

3. The term "grubbing" means the removal of root systems incident to surface growths of trees and vegetation.

4. The term "grading" means leveling, sloping, raising, lowering or otherwise changing the existing surface of land area.

5. The term "excavation" means removal of material, regardless of its nature, from below the existing ground surface.

6. The term "filling" means the deposition, levelling or compacting of organic or inorganic material at or in a vacant lot or land area for a purpose relating to the composition, contour, use, or proposed use of the land or for the purpose of disposing of material removed from another lot or land area.

b. It shall be unlawful for any person to perform or cause, procure, suffer or permit to be performed any land contour work, except as provided in subdivision c hereof, without a written permit from the commissioner.

c. Subdivision b hereof shall not apply: 1. To land contour work performed in connection with or in the course of the erection of one or more buildings or other structures or in connection with land uses pursuant to a permit therefor issued by the department of buildings, provided however that, (a) such permit specifically authorizes such land contour work, and (b) such land contour work is performed entirely within the lot lines of the building site for which such permit is issued. In such cases where water courses, drainage ditches, conduits or other means of carrying off water exist on the property and are to be altered or relocated, the commissioner of buildings shall consult with the commissioner of environmental protection concerning the means of disposal of surface water prior to issuance of a permit.

2. To land contour work which consists only of making improvements to a land area on which a one or two-family house already exists and which does not result in any change in the surface runoff pattern of such land area.

d. No condition shall be created or maintained as the result of land contour work that will interfere with existing drainage unless a substitute therefor is provided which is satisfactory to the commissioner and the commissioner of environmental protection in accordance with criteria established by such commissioners in consultation with the department of health. Watercourses, drainage ditches, conduits and other like or unlike means of carrying off water or disposing of surface water shall not be obstructed by refuse, waste, building materials, earth, stones, tree stumps, branches or by any other means that may interfere with surface drainage or cause the impoundment of surface waters either within or without the area on which contour work is performed. All excavations shall be drained and the drainage maintained as long as the excavation continues or remains. Where necessary, pumping shall be used. Fill material shall consist of inert, inorganic matter. It shall be unlawful to deposit garbage, waste paper, lumber or other organic material in land fill. The provisions of this section shall not prevent placement of organic matter for fill by the department of sanitation in locations under the jurisdiction of such department. The commissioner shall have the power, in consultation with the commissioner of buildings to adopt rules [and regulations] concerning the type of material that may be used for fill on land not mapped as park land. The commissioner shall enforce compliance with the provisions hereof, and shall make immediate complaint to the corporation counsel of any violation thereof. In addition, the commissioner of buildings shall similarly enforce compliance with the provisions hereof with respect to any land contour work performed pursuant to a permit issued by the commissioner of buildings, and in addition thereto shall inform the department of any failure to comply with a department of buildings violation order relating to the provisions hereof. e. [1. Any person who shall violate any provision of this section or shall cause, authorize or permit any such violation shall be subject to a civil penalty in the sum of one hundred dollars for each and every day that such violation shall continue; and in addition:

2. Any person who shall violate any provision of this section or shall cause, authorize or permit any such violation, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment for not more than ten days or by both such fine and imprisonment. Each day that any act forbidden by subdivision d hereof is committed shall constitute a separate and distinct offense.

f.] 1. Whenever the department shall determine that a condition has been created, or has resulted by reason of land contour work which violates any provision of subdivision (d) hereof, the department may [cause a notice to be served] *serve an order* in the manner prescribed in paragraph two of this subdivision upon the owners of the land upon which such condition has been created or has occurred, to

correct such condition within the time designated in such [notice] *order*. Upon the owner's failure to comply with any [notice or] order of the department as and within the time specified therein by such department, such department may perform such work or cause the same to be performed, the cost of which shall be due and payable and shall constitute a lien upon the land to which such [notice or] order pertains, when the amount thereof shall have been finally computed by such department and an entry of the amount thereof shall have been entered in the office of the city collector in the book in which such charges against the premises are to be entered. A notice thereof, stating the amount due and the nature of the charge shall be mailed by the city collector, within five days after such entry, to the last known address of the person whose name appears on the records in the office of the city collector as being the owner or agent or as the person designated by the owner to receive tax bills, or where no name appears, to the premises addressed to either the owner or agent. If such charge is not paid within ninety days from the date of entry, it shall be the duty of the city collector to collect and receive interest thereon at the rate [of seven percent per annum] *that would be applicable to a delinquent tax on such property*, to be calculated to the date of payment from the date of entry. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises on which such work was performed. Such charge and interest shall be collected and the lien thereon may be foreclosed in the manner provided by law for the collection and foreclosure of the lien of taxes, sewer rents, sewer surcharges and water rents due and payable to the city, and the provisions of law applicable to the collection and foreclosure of the lien of such taxes, sewer rents, surcharges and water rents shall apply to such charge. The provisions of section 11-307 of the code applicable to the payment of assessments shall also apply to charges heretofore or hereafter established pursuant to this section.

2. [The cost incurred pursuant to paragraph one of this subdivision by the department shall be paid initially out of the real property fund upon authorization of the board of estimate. All sums received or collected in reimbursement of such cost pursuant to such paragraph one, including interest and penalties thereon, shall be paid into the real property fund.

3.] Service of [a notice or] *an* order upon an owner pursuant to the provisions of this section shall be made personally upon such owner or by certified mail addressed to the last known address of the person whose name appears upon the records in the office of the city collector as being the owner of the premises or as the agent of such owner or as the person designated by the owner to receive the tax bills or, if no such name appears, to the address set forth as the address of the owner in the last recorded deed with respect to such premises. A copy of such [notice or] order shall also be filed in the clerk's office of each county where the property is situated and shall be posted in a conspicuous place on the premises.

[§ 19-147 Interference with sidewalks. a. It shall be unlawful for any person to take up any sidewalk or any part of a sidewalk, for any purpose whatever, without the written permission of the commissioner, under the penalty of twenty-five dollars for each offense.

b. The provisions of this section shall not apply:

1. To the making of necessary repairs to any such sidewalk;
2. To the resetting, when necessary, of any curb or gutter stone that may have become displaced, broken or sunken;
3. To the necessary repair or alteration of any coal slide under a sidewalk.]

§ [19-148] *19-138* Injury to or defacement of [sidewalks] *streets*. a. Breaking or injuring. It shall be unlawful for any person to break or otherwise injure any [sidewalk or footpath] *street*. [Violation of this

section shall subject such person to the penalty prescribed by section 19-134 of this title, but such] *There shall be no* penalty [shall not accrue] *for a violation of this section* in case of an accidental breaking of or injury to a [sidewalk] *street* which is repaired to the satisfaction of the commissioner, within forty-eight hours after such break or injury.

b. Defacing. [It] *Except as otherwise provided by law*, it shall be unlawful for any person to deface any [sidewalk] *street* by *painting*, printing or writing thereon, or attaching thereto, in any manner, any advertisement or other printed matter.

[§ 19-149 Deposits to cover cost of restoration of pavement.

a. When required. The commissioner, whenever granting a permit for any excavation, opening or disturbance of the pavement of the roadway of any street or of the driveway over a sidewalk for any purpose whatever, except in cases where such opening, excavation or disturbance shall be directly authorized by law, shall require of the person by whom or for whose benefit any excavation or opening is to be made, a deposit of such sum as shall be deemed sufficient to cover and pay all the expenses on the part of the agency granting the permit, as the case may be, for furnishing such material, doing such work, and taking such means as shall be required properly to restore and secure against sinkage the street and sidewalk, pavement, curb and flagging necessary to be replaced in consequence of making such excavation, opening or disturbance. Such deposit shall be a full discharge of any claim against the person making such deposit for the work so required of such agency.

b. Deposits to be paid to commissioner of finance. All moneys received as deposits under the preceding subdivision shall be paid to the commissioner of finance, who shall keep an account of the same, which shall be separate and distinct from all other funds and accounts whatsoever, and such deposits shall constitute a "special fund", in respect to each bureau, separately. Such fund shall be subject to such payments as are hereinafter provided for.

c. Disbursements from deposits. Such sums as shall be certified by the commissioner to have been necessarily expended by him for any repaving done shall be paid from the appropriate "special fund", upon the requisition of the commissioner, after examination, audit and allowance of accounts by the comptroller, provided that the amount so certified and paid shall not exceed the aggregate amount of such "special fund".

d. Any surplus in any such "special fund" over and above (1) the amounts which may be necessary to perform the work of restoration for which deposits were made to such fund pursuant to this section, and (2) the amounts which may be necessary for the refunding of balances of such deposits to persons legally entitled thereto, as certified by the comptroller, shall be paid into the general fund on the first day of April in each fiscal year.]

§ [19-150] *19-139* Excavations for private purposes. [a.] Notice to public service corporations. The person by whom or for whose benefit any excavation is to be made in any street shall give notice thereof in writing, to any corporation whose pipes, mains or conduits are laid in the street about to be disturbed by such excavation, at least [twenty-four] *forty-eight* hours before commencing the same; and shall, at his or her expense, sustain, secure and protect such pipes, mains or conduits from injury, and replace and pack the earth wherever the same shall have been removed, loosened or disturbed, under or around them, so that they shall be well and substantially supported. If any such person shall fail to sustain, secure and protect such pipes, mains or conduits from injury, or to replace and pack the earth under or around them, as the provisions of this section require, then the same may be done by the corporation to whom the same may belong, and the cost thereof, and all damages sustained by such corporation thereby

shall be paid by such person, and, in default thereof, such corporation may maintain an action against him therefor.

[b. Permits conditional upon such notice. The provisions of the preceding subdivision shall be made part and a condition of every permit that shall be granted to any person for making any excavation in any street in which the pipes, mains or conduits of any public service corporation shall be laid at the time of granting such permits; provided such corporations or any of them shall secure such permits, or pay a just proportion of the fees therefor.]

§ [19-151 Enforcement. a.] *19-140 Duties of police.* All police officers shall be vigilant in the enforcement of the provisions of [sections 19-149, 19-153, 19-155, 24-521, 19-150, subdivision b of 19-146 and 19-158 of the code] *this subchapter and section 24-521 of the code and report*, through proper channels, any violation thereof to the [corporation counsel] *commissioner*. Police officers, on observing or being informed of the opening of or excavating in any street, shall require the person making such opening or excavation to exhibit [the authority or permission] *a permit* therefor, and, if none has been given, [or excavation to exhibit the authority or permission therefor, and, if none has been given,] or if the exhibition thereof be refused, the officer shall[, without delay, make complaint to the corporation counsel and] report the same to the commissioner [through the police commissioner].

[b. Violations. Any person who shall violate any provision of sections 19-149, 19-153, 19-155, 24-521, 19-150 and 19-158 of the code, shall forfeit and pay a civil penalty of not less than fifty nor more than one hundred dollars for each day that the violation exists and, in addition thereto, shall be liable to pay the expense of repairing or replacing any pavement removed or damaged by such person.]

§ [19-152.1] *19-141 Property owners may voluntarily lay sidewalks.* [a.] Any owner of property, upon obtaining [the written permission of] *a permit from* the commissioner, may lay a sidewalk in front of such owner's premises, of such material and in such a manner as may be prescribed by such commissioner. Heating pipes or electric cables for the purpose of melting snow and ice may be incorporated in the construction of sidewalks with the approval of the commissioner. [The installation of electric cables for such snow and ice melting purposes shall require the additional permission of the commissioner of the department of general services.

b. Any person who shall violate the provisions of this section shall be subject to a penalty of fifty dollars for each offense. Such person shall be subject to an additional penalty of five dollars for each day such violation is continued.

c. Any person who shall willfully violate or neglect or refuse to comply with any provision of this section or any lawful regulation, order or special direction made thereunder, may also, upon conviction thereof, be punished by a fine of not more than fifty dollars, imprisonment for not exceeding thirty days, or both.]

§ [19-153] *19-142 Workers on excavations.* A person to whom [consent may be granted, or] a permit *may be* issued, to use or open a street, shall be required, before such [consent or] permit may be [granted or] issued, to agree that none but competent workers, skilled in the work required of them, shall be employed thereon, and that the prevailing scale of union wages shall be paid to those so employed. [Consent shall be denied and permission refused] *No permit shall be issued* until such agreement shall have been entered into with the department, and all such permits hereafter issued shall include therein a copy of this provision.

[§ 19-154 Protection at excavations. a. A person to whom consent has been granted, or a permit issued,

to use or open a street shall be required to provide suitable and sufficient fences or guard rails at all openings, open cuts and/or trenches. so as to prevent danger to persons traveling the street, and such fence or guard rails shall be maintained until the work shall be completed, or the danger removed.

b. All persons to whom consent has been granted, or a permit issued, shall display legible signs at the site of the street openings indicating thereon the name of the permittee doing the work and the name of the person for whom the work is being done; the names of the sub-contractors when employed shall also be indicated thereon.]

§ [19-155] 19-143 Excavations for public works. a. Notice to public service corporations. Whenever any street shall be regulated or graded, in which the pipes, mains or conduits of public service corporations are laid, the contractor therefor shall give notice thereof in writing to such corporations, at least [twenty-four] *forty-eight* hours before breaking ground therefor. Such provision shall be included in every contract for regulating or grading any street in which the pipes, mains or conduits of public service corporations shall be laid at the time of making such contract.

b. Public service corporations shall protect their property. Public service corporations whose pipes, mains or conduits are about to be disturbed by the regulating or grading of any street, shall, on the receipt of the notice provided for in the preceding subdivision, remove or otherwise protect and replace their pipes, mains and conduits, and all fixtures and appliances connected therewith or attached thereto, where necessary, under the direction of the commissioner.

[c.] § 19-144 *Issuance of permit to open street within five years after completion of city capital construction project requiring resurfacing or reconstruction of such street.* All persons having or proposing to install facilities in, on or over any street shall be responsible for reviewing the city's capital budget, capital plan and capital commitment plan. Such persons shall make provision to do any work, except emergency work, which requires the opening or use of any street prior to or during the construction of any capital project requiring resurfacing or reconstruction proposed in such budget or plan for such street. [On and after January first, nineteen hundred eighty-six, no] *No* permit to use or open any street, except for emergency work, shall be issued to any person within a five year period after the completion of the construction of a capital project set forth in such budget or plan relating to such street requiring resurfacing or reconstruction unless such person demonstrates that the need for the work could not have reasonably been anticipated prior to or during such construction. Notwithstanding the foregoing provision, the commissioner of transportation may issue a permit to open a street within such five year period upon a finding of necessity therefor, subject to such conditions as the commissioner may establish by rule [or regulation], which shall include appropriate guarantees against the deterioration of the restored pavement.

§ [19-156] 19-145 Pavements improperly relaid. a.

If any pavement which has been removed shall not be relaid to the satisfaction of the commissioner, he or she may cause [a written notice] *an order* to be served upon the person by whom such pavement was removed, or if such removal was for the purpose of making a connection between any house or lot, or for any sewer or pipes in the street, or for constructing vaults, or otherwise improving any house or lot, upon the owner or occupant of such house or lot, requiring such person, or the owner or occupant of such house or lot, to have such pavement properly relaid within five days after service of such [notice] *order*. [1.] Such [notice] *order* may be served upon the owner or occupant of a house or lot by leaving the same with any person of adult age upon the premises, or posting the same thereupon.

b. The cost of repaving such pavement shall be collected as follows:

1. The commissioner shall certify to the comptroller the cost of such work with a description of the lot or premises to improve which such removal was made.

2. The comptroller shall certify the cost of such work to the city collector, who shall collect the same in the same manner that arrears and water rates are collected.

§ [19-157] 19-146 Prevention of disturbances of street surface. a. It shall be unlawful for any person, without being previously authorized by a permit of the commissioner:

1. To fill in or raise, or cause to be filled in or raised, any street or any part thereof;

2. To take up, remove, or carry away, or cause to be taken up, removed or carried away, any asphalt or asphalt blocks, *concrete*, flagstones, turf, stone, gravel, sand, clay, or earth from any street or part thereof.

b. If any person shall violate this section, the commissioner shall take immediate steps to prevent such disturbances of the surface of the street, and shall forthwith restore such flagging or pavement, as nearly as may be practicable, to the condition in which it was before such taking or removal, at the expense of the party removing the same, to be recovered as penalties are recovered.

[c. Any person who shall violate any provisions of this section, upon conviction thereof, shall be punished by a fine of not less than fifty nor more than five hundred dollars, imprisonment for not more than thirty days, or both.]

§ [19-158] 19-147 Replacement of pavement and maintenance of street hardware. a. General provisions. Whenever any pavement, sidewalk, curb or gutter in any street shall be taken up, the person or persons by whom or for whose benefit the same is removed shall restore such pavement, sidewalk, curb or gutter to its proper condition to the satisfaction of the commissioner of transportation.

b. Rock refills. Whenever rock is excavated, not more than one-third of the total excavation shall be refilled with the broken stone, which must be in pieces not exceeding six inches in their largest dimension, mingled with clean earth and sand, and restored in such manner as to insure the thorough and compact filling of all spaces.

c. Restoration in certain cases. Whenever any pavement in any street shall be taken up, or any paving stones in a street shall have been removed in violation of [sections 19-149, 19-153, 19-155, 24-521 and 19-150] *this subchapter or of section 24-521* of the code, the person or persons by whom or for whose benefit the pavement was taken up or paving stones removed shall forthwith return such stones to their former places, and shall otherwise restore the pavement to its normal condition to the satisfaction of the commissioner [of transportation].

d. Maintenance of street hardware. All [manhole] *utility maintenance hole (manhole)* covers, castings, and other street hardware shall be maintained flush with the existing surrounding grade. All loose, slippery or broken [manhole] *utility maintenance hole (manhole)* covers, castings and other street hardware shall be replaced at the direction of and to the satisfaction of the commissioner [of transportation].

e. Payment of cost. If the pavement, sidewalk, curb, gutter or street hardware is not properly restored, replaced or maintained to the satisfaction of the commissioner [of transportation] pursuant to subdivisions a, b, c and d of this section, the commissioner may restore, replace or maintain the

pavement, sidewalk, curb, gutter or street hardware to its proper condition and the person or persons by whom or for whose benefit the same was removed shall be liable for the cost and expense of the restoration. f. Rules [and regulations]. The commissioner [of transportation] is hereby authorized to establish such rules [and regulations] as, in his or her judgment, shall be deemed necessary for the purpose of carrying out the provisions of this section.

g. Reasonable notice of improper or inadequate restoration of pavement or maintenance of street hardware [except]. *Except* where the condition of the pavement or hardware is an imminent danger to life or safety, *reasonable notice of improper or inadequate restoration of pavement or maintenance of street hardware* shall be given to a person by ordinary mail. In the case of utilities such notice may be oral or written and shall be given to a person or at a place designated by the utility and the utility shall respond within twenty-four hours.

[h. Violations. In addition to the civil penalties set forth in section 19-151 of this chapter, any person who shall violate any of the provisions of this section or rules and regulations adopted hereunder, upon conviction thereof, shall be punished by a not less than fifty nor more than one hundred dollars for each day that the violation exists or by imprisonment for not more than thirty days or by both such fine and imprisonment.

§ 19-159 Receipts to be recorded and accounted for. The commissioner shall enter the names of all persons from whom he or she may receive money for the city, on trust account or otherwise, with the amounts received, on what account, and when paid, in books to be provided for that purpose and kept in his or her office, open at all convenient times to public inspection. Such commissioner shall render a verified account thereof, item by item, to the comptroller, on Thursday of each week, and shall thereupon pay over the amount so received to the commissioner of finance, from whom he or she shall receive duplicate vouchers therefor, one of which he or she shall file in the office of the comptroller on the same day.

§ 19-160 Private streets; names, restrictions of. a. It shall be unlawful for any private street or thoroughfare to bear a name similar to a street or thoroughfare officially named.

b. Any person convicted of a violation of the provisions of this section shall be punished by a fine of not more than ten dollars, imprisonment for not more than ten days, or both.]

§ [19-161] 19-148 Safeguards against collision with posts, pillars and columns in streets. a. Every post, pillar or supporting column of a superstructure, including supporting columns of railroad structures, located at such points in the roadways of streets as to constitute a menace to vehicular traffic turning or going into the part of the street at or near the point of such location, shall be striped [black and white,] from its base to a point at least twelve feet high *with reflectors or reflectorized lights*, in such manner as shall be determined by the commissioner. At night, where directed by the commissioner, there shall be displayed a light of sufficient illuminating power to be visible at a distance of two hundred feet, on an arm or bracket extending from such post, pillar or supporting column, or suspended from the superstructure. The striping and lighting of such posts, pillars or supporting columns covered by this section shall be maintained to the satisfaction of the commissioner.

b. The commissioner shall have power to direct an order to [its] *the owner or operator of a superstructure* requiring compliance with the provisions of this section.

[c. Noncompliance with an order of the commissioner to carry out any of the provisions of this section shall be punished by a fine of not more than fifty dollars, imprisonment for not more than thirty days, or

both.]

*§ 19-149 Criminal penalties. a. Any person who violates any of the provisions of this subchapter or of section 24-521 of the code or any order issued by or rule promulgated by the commissioner pursuant thereto or the terms or conditions of any permit issued pursuant thereto or who causes, authorizes or permits such violation shall be guilty of a violation and upon conviction thereof shall be punishable by a fine of not more than five thousand dollars, or imprisonment for not more than fifteen days, or both such fine and imprisonment for each violation.*

*b. Any person who knowingly violates any of the provisions of this subchapter or of section 24-521 of the code or any order issued by or rule promulgated by the commissioner pursuant thereto or the terms or conditions of any permit issued pursuant thereto or who knowingly causes, authorizes or permits such violation shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine of not more than seven thousand five hundred dollars, or by imprisonment not exceeding sixty days, or both such fine and imprisonment for each violation.*

*c. In the case of a continuing violation, each day's continuance shall be a separate and distinct offense.*

*§ 19-150 Civil penalties. a. In addition to or as an alternative to the penalties set forth in section 19-149, any person who violates any of the provisions of this subchapter, or of section 24-521 of the code, or any order issued by or rule promulgated by the commissioner pursuant thereto or the terms or conditions of any permit issued pursuant thereto, or who causes, authorizes or permits such violation shall be liable for a civil penalty for each violation. In the case of a continuing violation, each day's continuance shall be a separate and distinct offense.*

*b. 1. Except as provided in subdivision c of this section, such civil penalty shall be determined in accordance with the following schedule:*

Section of the Administrative Code	Maximum Civil Penalty (dollars)
19-102	5,000
19-107	5,000
19-109 subd(a)	5,000
19-109 subd(c)	1,000
19-111	1,000
19-112	1,000
19-113	1,000
19-115	1,000
19-116	1,000
19-117 subd(a)	5,000
19-119	5,000
19-121 subd(a)	5,000

19-121 subd(b) para (5) & (7)	5,000
19-121 subd(b) para (2), (3) & (6)	1,000
19-122	1,000
19-123	5,000
19-126	5,000
19-128	1,000
19-133	1,000
19-135	1,000
19-137	1,000
19-138	1,000
19-139	5,000
19-141	1,000
19-144	5,000
19-145	5,000
19-146	1,000
19-147	1,000
19-148	1,000
24-521	5,000
All other provisions of this subchapter and rules or orders relating thereto	500

*Note: Reference to an administrative code provision is intended to encompass the penalties for violations of the rules or orders made or of the terms or conditions of permits issued pursuant to such code provision.*

*2. The civil penalties provided for in this subdivision may be recovered in a proceeding before the environmental control board or in an action in any court of competent jurisdiction.*

*3. The environmental control board shall have the power to impose the civil penalties provided for in this subdivision. A proceeding before such board shall be commenced by the service of a notice of violation returnable before such board.*

*c. In addition to the civil penalty determined in accordance with subdivision b of this section an additional civil penalty may be recovered in the amount of the expense, if any, incurred by the city to restore or replace pavement unlawfully removed, taken up or broken or to remedy any other unsafe condition on any street resulting from such violation. Such additional civil penalty may be recovered in an action or proceeding in any court of competent jurisdiction.*

*§ 19-151 Enforcement. a. In addition to police officers, authorized officers and employees of the department of transportation and of other city agencies who are designated by the commissioner shall*

*have the power to enforce the provisions of this subchapter and the rules and orders of the commissioner in relation thereto and to issue summonses and appearance tickets returnable in the criminal court and notices of violation returnable before the environmental control board for violations thereof.*

*b. In addition to the orders specifically referred to in this subchapter, the commissioner shall have the power to issue any other orders which may be necessary or appropriate (i) to enforce compliance with any of the provisions of this subchapter or of section 24-521 of the code, the rules of the department in relation thereto or the terms or conditions of any permit issued pursuant thereto, or (ii) to remedy any condition found to exist on any street which is in violation of any of the provisions of this subchapter or of section 24-521 of the code, the rules of the department in relation thereto or the terms or conditions of any permit issued pursuant thereto. Such orders shall be served in the manner provided by the rules of the department. The commissioner shall afford the persons to whom such order is directed an opportunity to be heard in accordance with the rules of the department.*

*c. The commissioner may request the corporation counsel to institute any action or proceeding that may be appropriate or necessary to restrain, correct or abate a violation of this subchapter or of section 24-521 of the code or the rules of the department in relation thereto or to compel compliance with any order issued by the commissioner thereunder or with the terms or conditions of any permit issued pursuant to this subchapter. Such actions and proceedings may be instituted by the corporation counsel in any court of appropriate jurisdiction. In such actions or proceedings the city may apply for restraining orders, preliminary injunctions or other provisional remedies. The court to which such application is made may make any or all of the orders specified as may be required in such application, with or without notice, and may make such other or further orders or directions as may be necessary to render the same effectual.*

*d. If the commissioner finds that any work in violation of this subchapter or of section 24-521 of the code, the rules of the department or the terms or conditions of a permit issued pursuant to this subchapter creates an imminent danger to life or safety, he or she may issue an order to cease and desist. Such order shall be given orally or in writing to the persons executing the work and shall require immediate compliance therewith. The order may also require such persons to execute such work or take such action as the commissioner determines may be necessary to remove the danger or otherwise make the street reasonably safe, including but not limited to filling in an excavation and repairing, restoring or replacing the pavement thereon or removing construction material or equipment or dirt, debris or rubbish therefrom.*

*e. In addition to any other remedies or penalties set forth in this subchapter, upon the failure to comply with an order issued by the commissioner to remedy any condition on any street which is in violation of this subchapter, or of section 24-521 of the code, the rules of the department in relation thereto or the terms or conditions of a permit issued pursuant to this subchapter, including an order to cease and desist, within the time set forth in such order, the commissioner may execute the work required to be executed in such order. All costs and expenses of the city for such work may be recovered from the persons who are found to be liable for the violation. Before undertaking to execute any work required by an order, other than work required by an order to cease and desist, the commissioner shall afford the persons to whom such order is directed an opportunity to be heard in accordance with the rules of the department.*

*f. The provisions of sections 19-149 and 19-150 shall be construed to provide that a permittee or a person for whose benefit any activity for which a permit is required pursuant to this subchapter is performed shall be liable with his or her employee, agent or independent contractor for a violation of the provisions of this subchapter or of section 24-521 of the code or any order issued by or rule*

*promulgated by the commissioner pursuant thereto or the terms or conditions of any permit issued pursuant thereto which is committed by such employee, agent or independent contractor in the course of performing the activity for which a permit was issued to such permittee or the activity which benefitted such person. Notwithstanding the foregoing provision, in any action or proceeding against a person who owns or leases real property for a violation arising out of work in a street which benefitted the real property owned or leased by such person, it shall be an affirmative defense by such owner or lessee that the work which was the subject of such violation was performed by a licensed master plumber as defined in subdivision e of section 26-141 of the administrative code under a permit issued by the department or by an operator of an underground facility as defined in 12 NYCRR 53-1.5.*

§ 19-152 Duties and obligations of property owner with respect to sidewalks and lots.

- a. The owner of any real property, at his or her own cost and expense, shall (1) install, construct, repave, reconstruct and repair the sidewalk in front of or abutting such property, including but not limited to the intersection quadrant for corner property, and (2) fence any vacant lot or lots, fill any sunken lot or lots and/or cut down any raised lots comprising part or all of such property whenever the commissioner of the department shall so order or direct. Based upon risk or hazard assessment criteria, the commissioner shall so order or direct the owner to reinstall, construct, reconstruct, repave or repair a defective sidewalk flag in front of or abutting such property, including but not limited to the intersection quadrant for corner property or fence any vacant lot or lots, fill any sunken lot or lots and/or cut down any raised lots comprising part or all of such property after an inspection of such real property by a departmental inspector. Before conducting inspections, the department shall establish standard criteria for inspection to determine sidewalk flag defects based upon risk or hazard assessment criteria. The commissioner shall not direct the owner to reinstall, reconstruct, repave or repair a sidewalk existing at legal grade which was damaged by the city, its agents or any contractor employed by the city during the course of a city capital construction project.
- b. All such work shall be done in accordance with such specifications and regulations prescribed by the department.
- c. Whenever the department shall determine that a sidewalk flag should be installed, constructed, or reconstructed, or repaved, based upon risk or hazard assessment criteria or that a vacant lot should be fenced, or a sunken lot filled or a raised lot cut down, it may order the owner of the property abutting on such sidewalk flag or the owner of such vacant, sunken or raised lot by issuing a violation order to perform such work. Such order shall provide a detailed explanation of the inspection and the sidewalk defects according to sidewalk flags including a detailed diagram of the property and defects by type. The order shall also inform the owner of the existence of the borough offices within the department together with an explanation of the procedures utilized by the borough office as provided for in paragraph eighteen of subdivision a of section twenty-nine hundred three of the New York city Charter as well as a complaint and appeal process, including the right to request a reinspection and then the right to appeal by filing a notice of claim with the office of the comptroller of the city of New York and thereafter a petition for appeal and commence a proceeding to review and/or correct the notice of account and/or the quality of the work performed under the direction of or by the department as provided herein and the procedures as to how to appeal by filing a notice of claim with the office of the comptroller of the city of New York and how to file a petition and commence a proceeding to review and/or correct the notice of account and/or the quality of the work performed as provided herein and the location, where the forms may be obtained. Such order shall specify the work to be performed, an estimate of the cost of the work to repair the defects and the order shall also specify a reasonable time for compliance, provided that the time for compliance shall be a minimum of forty-five days. The department shall, by appropriate regulations, provide for a reinspection by a different departmental inspector than the inspector that conducted the first or original inspection upon request of the property owner to the appropriate borough

office. Where appropriate, the department shall notify the property owner of the date of reinspection at least five days prior to the reinspection date. Such inspector conducting the reinspection shall conduct an independent inspection of the property without access to the reports from the first inspection. The inspector conducting the reinspection shall file a new report and the department shall issue a new order to the owner specifying the results of the reinspection with a detailed diagram of the property and defects by type. Such order shall also advise the owner of the procedures utilized by the borough office as provided for in paragraph eighteen of subdivision of section twenty-nine hundred three of the New York city charter and also of the right to challenge the notice of account and/or the quality of the work performed by filing a notice of claim with the office of the comptroller and thereafter a petition and commence a proceeding to review and/or correct the notice of account and/or the quality of the work performed under the direction of or by the department as provided in sections 19-152.2 and 19-152.3 of the code and specify the procedures as to how to appeal by filing a notice of claim with the office of the comptroller of the city of New York and how to file a petition and commence a proceeding to review and/or correct the notice of account and/or the quality of the work performed and the location where the forms may be obtained.

d. If the department has been notified in writing of the existence of a defective, unsafe, dangerous or obstructed condition of a sidewalk pursuant to subdivision [(d)] (c) of section 7-201 of the code, and the department determines that such condition constitutes an immediate danger to the public, it may notify the property owner that such condition constitutes an immediate danger to the public and direct such owner to repair same within ten days of the service of the notice.

e. Upon the owner's failure to comply with such order or notice within forty-five days of service and filing thereof, or within ten days if such period is fixed by the department pursuant to subdivision d of this section, the department may perform the work or cause same to be performed under the supervision of the department, the cost of which, together with administrative expenses, as determined by the commissioner, but not to exceed twenty percent of the cost of performance, shall constitute a debt recoverable from the owner by lien on the property affected or otherwise. Upon entry by the city collector, in the book in which such charges are to be entered, of the amount definitely computed as a statement of account by the department, such debt shall become a lien prior to all liens or encumbrances on such property, other than taxes. An owner shall be deemed to have complied with this subdivision if he or she obtains a permit from the department to perform such work as specified in the order within the time set forth therein and completes such work within ten days thereafter.

f. Service of a notice or order by the department upon an owner pursuant to the provisions of this section shall be made upon such owner or upon his or her designated managing agent personally or by certified or registered mail, return receipt requested, addressed to the person whose name appears on the records of the city collector as being the owner of the premises. If the records of the city collector show that a party, other than the owner, has been designated to receive tax bills for such property, the notice shall be mailed to such party as well as to the owner of record, at his or her last known address, or, if it is a multiple dwelling, service upon the owner or managing agent may be made in accordance with section 27-2095 of the code. If the postal service returns the order with a notation that the owner refused to accept delivery of such notice, it may be served by ordinary mail and posted in a conspicuous place on the premises.

g. A copy of such notice or order shall also be filed in the office of the clerk of each county where the property is situated, together with proof of service thereof.

h. Nothing contained in this section shall impair or diminish the power of the city to install, construct, reconstruct, repave or repair sidewalk flags or to fence vacant lots or to fill sunken lots or to cut down raised lots or to enter into contracts with the owners of premises abutting on streets for such installation,

construction, reconstruction, repaving or repair of sidewalk flags or fencing of vacant lots or filling of sunken lots, or cutting down of any raised lots in accordance with the rules of the procurement policy board. Nor shall anything contained in this section affect or impair any act done or right accrued or accruing, or acquired, or liability incurred prior to the effective date of this section, but the same may be enjoyed or asserted as fully and to the same extent as if this section had not been enacted.

i. After the work has been performed or after inspection by the department in the case where the work was performed under the direction of the department a notice of such account, stating the amount due and the nature of the charge, shall be mailed by the city collector, within five days after such entry, to the last known address of the person whose name appears on the records of the city collector as being the owner or agent or as the person designated by the owner to receive tax bills or, where no name appears, to the premises, addressed to either the owner or the agent. Such notice shall also inform the addressee of the existence of a complaint and appeal process including the procedures utilized by the borough office as provided for in paragraph eighteen of subdivision A of section twenty-nine hundred three of the New York city charter the right to appeal the amount due and the quality of work performed under the direction of or by the department by filing a notice of a claim with the office of the comptroller of the city of New York and thereafter by filing a petition and commence a proceeding to review and/or correct the notice of such account and/or the quality of the work performed under direction of or by the department as provided in sections 19-152.2 and 19-152.3 of the code and the location where the forms may be obtained. The owner shall only be responsible for the cost of reinstalling, constructing, reconstructing, repaving or repairing defective sidewalk flags ordered or directed by the department, not an entire sidewalk if the entire sidewalk lacks defects.

j. If such charge is not paid within ninety days from the date of entry, it shall be the duty of the city collector to charge and receive interest thereon, to be calculated to the date of payment from the date of entry.

(1) Except as otherwise provided in paragraph (2) of this subdivision, interest shall be charged at the rate of interest applicable to such property for real property taxes pursuant to section 11-224 of the code.

(2) [If the rate of interest applicable to such property for real property taxes pursuant to section 11-224 is seven percent,] *With respect to any parcel on which the annual tax is not more than two thousand seven hundred fifty dollars, other than a parcel which consists of vacant or unimproved land,* interest shall be charged at the rate determined pursuant to subdivision p or at the rate of eight and one-half percent whichever is lower.

k. Such charge and interest shall be collected and the lien thereof may be foreclosed in the manner provided by law for the collection and foreclosure of the lien of taxes, sewer rents, sewer surcharges and water charges due and payable to the city, and the provisions of chapter four of title eleven of the code shall apply to such charge and the interest thereon and the lien thereof.

l. In addition to collecting the charge for the cost of installation, construction, repaving, reconstruction and repair of a sidewalk, fencing of a vacant lot, filling of a sunken lot and/or cutting down any raised lot as a lien, 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 f, the cost to the city of performing such work shall be prima facie evidence of the reasonable cost thereof.

m. Upon application in writing of either (i) an owner of real property which is improved by a one, two,

three, four, five or six family house: or (ii) an owner of real property which has an assessed valuation of no more than thirty thousand dollars, upon which a charge in excess of two hundred fifty dollars but not in excess of five thousand dollars has been entered pursuant to this section, the commissioner of finance may agree with the owner to divide the charge into four annual installments. Each installment shall be as nearly equal as may be. The first installment thereof shall be due and payable upon approval of the application and each succeeding installment shall be due and payable on the next ensuing anniversary date of the date of entry of the charge, together with interest thereon from the date of entry at the rate determined pursuant to subdivision p, or at the rate of eight and one-half percent per annum, whichever is lower. The commissioner may require owners of parcels making application pursuant to this subdivision to furnish satisfactory proof of their eligibility. In the event that the owner fails to make payment of any installment within thirty days of the due date, the commissioner may declare such installment agreement to be null and void and the balance of the charge shall become immediately due and payable with interest at the rate prescribed in subdivision j of this section to be calculated from the date of entry to the date of payment. The installments not yet due with interest to date of payment may be paid at any time. The city may not enforce a lien against any owner who has entered into an agreement with the commissioner of finance pursuant to this section provided that he or she is not in default thereunder. No installment shall be a lien or deemed an encumbrance upon the title to real property charged until it becomes due as herein provided. In the event that the city shall acquire, by condemnation or otherwise, any property upon which installments are not due, such installments shall become due as of the date of acquisition of title by the city and shall be set off against any award that may be made for the property acquired, with interest to the date of acquisition of title.

n. All orders or notices served by the commissioner in connection with the installation, construction, reconstruction, repavement or repair of sidewalks, fencing of vacant lots, filling of sunken lots or cutting down of raised lots and all charges arising out of the performance of such work by the department subsequent to January first, nineteen hundred seventy-seven are hereby legalized, validated, ratified and confirmed as though such orders, notices and charges were made pursuant to this section.

o. Notwithstanding any inconsistent provision of subdivision e of this section, an owner of real property shall not be required to pay for the cost of reinstalling, reconstructing or repaving existing sidewalk flags which are not at legal grade if:

(1) the notice or order requiring the work was issued in connection with a city capital construction project for street or sewer reconstruction; and

(2) the owner did not execute a waiver of grade with respect to the property; and

(3) the department of buildings issued a certificate of occupancy based upon a certification submitted to the department of transportation by a person authorized to make such certifications, other than the owner making application under this section, that the sidewalk flags abutting the property were at legal grade although the sidewalk flags were not, in fact, at legal grade; and

(4) the owner agrees to cooperate with the city in any and all judicial or administrative proceedings arising out of the submission of the inaccurate certification; and

(5) with respect to charges entered after the effective date of a chapter of the laws of nineteen hundred ninety-two which amends this paragraph, the owner makes application to the department of transportation pursuant to this subdivision within one year after the date of entry of the charge in a manner and form to be provided by such department. Notwithstanding any other provision of law, in city capital construction projects, a property owner shall not be responsible to pay the cost of

reinstalling, reconstructing or repaving sidewalk flags that are not at legal grade if those sidewalk flags were reinstalled, reconstructed or repaved consistent with the applicable city specifications within the past five years and have no defects which are unrelated to grade. The department of transportation may require an owner to furnish proof that this subdivision applies with respect to any charge.

p. On or before the first day of June, nineteen hundred eighty-six, and on or before the first day of June of each succeeding year, the director of the office of management and budget shall determine and certify the city's cost of debt service, expressed as a percentage and rounded to the nearest one-tenth of a percentage point and shall transmit copies of such certification to the city council and the commissioner of finance. The percentage so determined and certified shall be the rate of interest applicable for purposes of paragraph (2) of subdivision j and subdivision m during the ensuing fiscal year of the city, provided, however, that for the period beginning on February third, nineteen hundred eighty-five and ending on June thirtieth, nineteen hundred eighty-six, the applicable rate of interest shall be eight and one-half percent per annum. Any rate determined pursuant to this subdivision shall apply to charges, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect. For the purposes of this subdivision, the city's cost of debt service shall be the average rate of interest paid by the city during the first ten months of the fiscal year in which the determination is made on general obligation bonds issued by the city during such period with a maturity of four years or if no general obligation bonds with a maturity of four years are issued during such period, on general obligation bonds with a maturity of no less than three nor more than five years.

q. Notwithstanding any inconsistent provision of this section, the amount charged an owner for sidewalk reconstruction performed or caused to be performed by the department in connection with a city capital construction project for street or sewer reconstruction shall be determined according to the average city expenditure for such sidewalk reconstruction projects in the borough where such reconstruction is performed. Such average expenditure shall be computed by the commissioner.

r. The department shall keep record of all complaints submitted and work ordered and performed under this section and shall issue a public report for a minimum of three years containing such information including the number of complaints heard each year according to category, the number of reinspections performed, and the dispositions of such reinspections.

*s. The provisions of sections 19-149, 19-150 and 19-151 shall not apply to orders issued pursuant to this section.*

§ 19-152.2 Claim process. a. A claim against the department arising from the city's performance pursuant to section 19-152 of the code shall be initiated within one year from the date of entry of a notice of account by filing a notice of claim with the office of the comptroller of the City of New York. The claim forms shall be provided to property owners upon request at no cost.

b. If the office of the comptroller determines that the final work was improper, the office of the comptroller shall notify the department. The department shall pursue corrective measures and shall issue and mail a new notice within thirty days of such determination, stating when the same will be corrected and by whom, by mail addressed to the person whose name appears on the records of the city collector as being the owner of the premises. If the records of the city collector show that a party other than the owner has been designated to receive the tax bills for such property, the notice shall be mailed to such party as well as to the owner of record, at his or her last known address, or if it is a multiple dwelling, service upon the owner or managing agent may be made in accordance with section 27-2095 of the code.

§ 19-152.3 Appeal process to small claims assessment review part. a. If an owner of property claiming to be aggrieved does not secure satisfaction with the office of the comptroller, such owner of property may file a petition for appeal and commence a proceeding to review and/or correct the notice of account and/or the quality of the work performed with the small claims assessment review part in the supreme court. The petition for appeal forms shall be provided to property owners upon request, at no cost. A fee of twenty-five dollars shall be paid upon filing of each petition, which shall be the sole fee required for petitions pursuant to this section. Such petition shall contain an allegation that at least thirty days have elapsed since the notice of claim, based on section 7-201 of the code upon which such action is founded, was presented to the office of the comptroller for adjustment, and that the comptroller has neglected or refused to make an adjustment, or payment thereof for thirty days after such presentment.

b. The petition for an appeal form shall be prescribed by the department after consultation with the office of court administration. Such form shall require the petitioner to set forth his name, address and telephone number, a description of the real property for which the appeal is sought, the types of property defects or a description of the violations, a concise statement of the ground or grounds upon which the review is sought and any such information as may be required by the department and the office of court administration. No petition for an appeal form shall relate to more than one parcel of real property. The petition may be made by a person who has knowledge of the facts stated therein and who is authorized in writing by the property owner to file such petition. Such written authorization must be made a part of such petition and bear a date within the same calendar year during which the petition was filed.

c. The petitioner shall personally deliver or mail by certified mail, return receipt requested a copy of the petition within seven days from the date of filing with the clerk of the supreme court to the commissioner of the department or a designee of the commissioner.

d. The chief administrator of the courts shall appoint a panel of small claims hearing officers within the small claims assessment review program in the supreme court selected from persons requesting to serve as such hearing officers who have submitted resumes of qualifications to hear the proceedings relating to sidewalks and lots. Hearing officers to be appointed to the panel shall be qualified by training, experience, and knowledge of real property improvement and valuation practices and provisions of state and local law governing real property improvements, liabilities and assessments, but need not be attorneys at law. The chief administrator of the court shall randomly assign a hearing officer or hearing officers to conduct an informal hearing on the petition for appeal with the applicants for small claims and a representative of the department. Hearing officers assigned shall be familiar with the department and shall not possess any conflict of interest as defined by the public officers law with regard to the petitions heard. Hearing officers shall be compensated for their services in accordance with a fee schedule established by the chief administrator of the courts.

e. The small claims proceedings shall be held within thirty days after the date of filing the petition. Such proceeding, where practicable, shall be held at a location within the county in which the real property subject to review is located. The petitioner and the department shall be advised by mail of the time and place of such proceeding.

f. The petitioner need not present expert witnesses nor be represented by an attorney at such hearing. Such proceedings shall be conducted on an informal basis in such manner as to do substantial justice between the parties according to the rules of substantive law. The petitioner shall not be bound by statutory provisions of rules of practice, procedure, pleading or evidence. The hearing officer shall be empowered to compel the department and any other party who performed the work to produce records and other evidence relevant and material to the proceeding. All statements and presentation of evidence made at the hearing by either party shall be made or presented to the hearing officer who shall assure that decorum is maintained at the hearing. The hearing officer shall consider the best evidence presented

in each particular case. Such evidence may include but shall not be limited to, photographs of the sidewalk or lots, construction contracts or bills from licensed firms that performed the work to correct the alleged violations. The hearing officer may, if he deems it appropriate, view or inspect the real officer property subject to review. The petitioner shall have the burden of proving entitlement to the relief sought.

g. All parties are required to appear at the hearing. Failure to appear shall result in the petition being determined upon inquiry by the hearing officer based upon the available evidence submitted.

h. The hearing officer shall determine all questions of fact and law de novo.

i. The hearing officer shall make a decision in writing with respect to the petition for appeal within thirty days after conclusion of the hearing conducted with respect thereto. The hearing officer's decision may grant the petition in full or in part or may deny the petition. If the hearing officer grants the petition in full or in part, the hearing officer shall award the petitioner costs against the respondent in an amount equal to the fee paid by the petitioner to file the petition for appeal. The hearing officer may award the petitioner costs against the respondent in an amount equal to the fee paid by the petitioner to file the petition for appeal where he deems it appropriate.

j. If the hearing officer grants the petition in full or in part, the hearing officer shall order the department and the city collector, where appropriate, to change or correct their records to reflect the determination or order the work corrected and reinspected by a departmental inspector after the work was performed.

k. The decision of the hearing officer shall state the findings of fact and the evidence upon which it is based. Such decisions shall be attached to and made part of the petition for appeal and shall be dated and signed.

l. The hearing officer shall promptly transmit the decision to the clerk of the court, who shall file and enter it and the hearing officer shall promptly mail a copy of the decision to the petitioner or the commissioner of the department or the designee of the commissioner and to the city collector, where appropriate.

m. No transcript of testimony shall be made of a small claims review hearing. The hearing officer's decision of a petition of appeal shall not constitute precedent for any purpose or proceeding involving the parties or any other person or persons.

n. A petitioner to an action pursuant to this section may seek judicial review pursuant to article seventy-eight of the Civil Practice Law and Rules provided that such review shall be maintained against the same parties named in the small claims petition.

o. The chief administrator of the courts shall adopt such rules of practice and procedure not inconsistent herewith as may be necessary to implement the appeal procedures hereby established. Such rules shall provide for the scheduling of evening hearings where practicable, the availability of petition forms, and the procedures for the filing of decisions rendered by hearing officers pursuant to the provisions of this section.

p. If in the final order in any proceeding, it is determined that the amount due was excessive or improper and ordered or directed that the same be corrected, the city collector shall issue and mail a new notice of such account stating the new amount owed to the person whose name appears on the records of the city collector as being the owner of the premises. If the records of the city collector show that a party other

than the owner has been designated to receive the tax bills for such property, the notice shall be mailed to such party as well as to the owner of record, at his or her last known address, or, if it is a multiple dwelling, service upon the owner or managing agent may be made in accordance with section 27-2095 of the code. If such charge is not paid within ninety days from the date of entry, it shall be the duty of the city collector to charge and receive interest thereon, to be calculated to the date of payment from the date of entry. Where appropriate, if in the final order in any proceeding, it is determined that the amount due was excessive or improper and the owner of the property is entitled to a refund for the excessive amount, the hearing officer shall promptly order and direct such refund within thirty days.

q. If, in the final order in any proceeding, it is determined that the final work was improper and ordered or directed that the same be corrected, the department shall issue and mail a new notice of such within thirty days stating when the same will be corrected and by whom, by mail, addressed to the person whose name appears on the records of the city collector as being the owner of the premises. If the records of the city collector show that a party other than the owner has been designated to receive the tax bills for such property, the notice shall be mailed to such party as well as to the owner of record, at his or her last known address, or, if it is a multiple dwelling, service upon the owner or managing agent may be made in accordance with section 27-2095 of the code.

## **SUBCHAPTER 2 PARKING AND OTHER USES OF STREETS**

§ 19-162 Permissible parking for certain purposes. 1. Notwithstanding any local law or regulation to the contrary, but subject to the provisions of the vehicle and traffic law, it shall be permissible for a bus owned, used or hired by public or nonpublic schools to park at any time, including overnight, upon any street or roadway, provided said bus occupies a parking spot in front of and within the building lines of the premises of the said public school or nonpublic school.

2. Notwithstanding the department of transportation regulation prohibiting parking in front of private driveways, it shall be permissible for the owner or lessor of the lot accessed by such driveway to park a passenger vehicle registered to him or her at that address in front of such driveway, provided that such lot does not contain more than two dwelling units and, further provided that such parking does not violate any other provision of the vehicle and traffic law or local law, rule or regulation concerning the parking, stopping, or standing of motor vehicles. The hearing officer shall dismiss any notice of violation issued to the owner of such passenger vehicle upon receipt from the owner, in person or by mail, of a copy of the vehicle registration containing the same address as that at which the ticket was given or other suitable evidence showing compliance with the law. The director of the bureau shall set forth the proof required in the case of lots where confusion may arise including, but not limited to, corner lots or lots with dual addresses.

§ 19-163 Holiday suspensions of parking regulations. a. All alternate side of the street parking regulations shall be suspended on the following religious holidays: Christmas, Yom Kippur, Rosh Hashanah, Holy Thursday, Good Friday, Ascension Thursday, Feast of the Assumption, Feast of All Saints, Feast of the Immaculate Conception, first two days of Succoth, Shemini Atzereth, Simchas Torah, Shevuoth, Orthodox Holy Thursday, Orthodox Good Friday, first two and last two days of Passover, the Muslin holidays of Eid Ul-Fitr and Eid Ul-Adha and all state and national holidays.

b. Each year, and soon as possible after the days of observance of the Muslin holidays of Eid Ul-Fitr and Eid Ul-Adha have been fixed pursuant to religious law and tradition, the commissioner shall designate the three days applicable to each of the aforementioned holidays as days upon which alternate side of the street parking regulations shall be suspended.

§ 19-164 Special parking for wheelchair accessible vans. Any wheelchair accessible van licensed by the taxi and limousine commission actually in the process of boarding or discharging wheelchair passengers or escorting wheelchair passengers to and from their destination, shall be permitted to park in any area in which a vehicle with a special vehicle identification permit is permitted to park.

§ 19-165 Parking of motor vehicles at night.

a. It shall be unlawful for any person to park a motor vehicle during the period from one-half hour after sunset to one-half hour before sunrise on the streets of the city without displaying lights, unless said vehicle is equipped with a reflector as provided for in the vehicle and traffic law of the state of New York.

b. Nothing herein shall be construed to increase the number of hours of parking permitted by any laws or traffic regulations [of the police department] of the city nor to permit parking of vehicles where now prohibited by any law or regulations of any agency in the city.

§ 19-166 Unlawful use or possession of official cards. Any person who without permission of the commissioner of transportation:

1. Makes or engraves, or causes or procures to be made or engraved, or willingly aids or assists in making or engraving, a plate or other means of reproducing or printing the resemblance or similitude of an official department of transportation special vehicle identification card or any other official card issued by the department of transportation; or

2. Has in his or her possession or custody any implements, or materials, with intent that they shall be used for the purpose of making or engraving such a plate or means of reproduction; or

3. Has in his or her possession or custody such a plate or means of reproduction with intent to use, or permit the same to be used, for the purpose of taking therefrom any impression or copy to be uttered; or

4. Has in his or her possession or custody any impression or copy taken from such a plate or means of reproduction, with intent to have the same filled up and completed for the purpose of being uttered; or

5. Makes or engraves, or causes or procures to be made or engraved, or willingly aids or assists in making or engraving, upon any plate or other means of reproduction, any figures or words with intent that the same may be used for the purpose of altering any genuine card hereinbefore indicated or mentioned; or

6. Has in his or her custody or possession any of the cards hereinbefore mentioned, or any copy or reproduction thereof; [Is] is guilty of an offense punishable by a fine of not less than two hundred fifty dollars, or imprisonment for not more than thirty days, or both.

[§ 19-167 Dimensions and weights of vehicles operated in the city. a. Pursuant to paragraph one of subdivision a of section sixteen hundred forty-two of the vehicle and traffic law and paragraph one of subdivision b of section twenty-nine hundred three of the New York city charter, the commissioner of transportation may promulgate rules and regulations prescribing the dimensions and weights of vehicles which may be operated within the city. No person shall operate or move, or cause or knowingly permit to be operated or moved any vehicle or combination of vehicles of a size or weight exceeding the limitations provided for in such rules and regulations.

b. Except as provided in subdivision c of this section, the violation of such rules and regulations shall be punishable by a fine of not less than one hundred nor more than two hundred and fifty dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense; by a fine of not less than two hundred and fifty dollars nor more than five hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense.

c. The violation of such rules and regulations which prohibit the operation or movement of a vehicle or combination of vehicles whose total weight exceeds the maximum total weight prescribed by such rules and regulations shall be punishable by fines in accordance with the following schedule:

EXCESS WEIGHT TOTAL (pounds)		FINE
greater than	less than or equal to	(dollars)
1,600	2,000	50
2,000	3,000	75
3,000	4,000	100
4,000	5,000	200
5,000	6,000	300
6,000	7,000	400
7,000	8,000	500
8,000	9,000	600
9,000	10,000	700
10,000	15,000	1,200
15,000	20,000	1,700
20,000	25,000	2,200
25,000	30,000	2,700
30,000	35,000	3,200
35,000	40,000	3,700
40,000	45,000	4,200
45,000	50,000	4,700

or by imprisonment for not less than one nor more than thirty days, or by both such fine and imprisonment.]

§ 19-168 Fishing from public bridges. a. The commissioner shall be authorized to post on any public bridge within the city, signs prohibiting fishing therefrom. The commissioner shall post and maintain such signs on bridges selected at his or her discretion.

b. It shall be unlawful for any person to fish, by any means whatsoever, from any public bridge within the city where a sign prohibiting such conduct has been posted.

c. Violation of this section shall be punishable by a fine of not more than fifty dollars nor less than fifteen dollars for each violation thereof.

§ 19-169 Removal of vehicles parked in front of a private driveway. a. Subject to the provisions of this section an owner of a lot containing no more than two dwelling units, or his or her lessee, may cause any vehicle which is parked in front of his or her private driveway and which blocks the entry or egress of a vehicle from such property to be removed by a person licensed to engage in towing pursuant to subchapter thirty-one of chapter two of title twenty of the code, where a person authorized to issue a notice of parking violation has issued such a notice and affixed it to such unlawfully parked vehicle; the issuance of such a notice shall constitute authorization to the owner of such property, or his or her lessee, to arrange for removal of such unlawfully parked vehicle, and such removal shall be deemed to be at the request of the person who issued the notice.

b. Where the owner of such property, or his or her lessee, requests a police officer to arrange for removal of any such unlawfully parked vehicle, such vehicle shall be removed at the direction of the police department by the next available towing company participating in the rotation tow program established pursuant to section 20-519 of the code. Nothing in this section shall be construed to preclude an owner of such property, or his or her lessee, acting pursuant to this section, from arranging for the removal of such unlawfully parked vehicle by a tow operator of such person's choice. The commissioner of consumer affairs shall promulgate a regulation establishing performance standards for licensees in order to insure that vehicles summonsed under this section are towed as expeditiously as possible.

c. 1. No vehicle may be removed pursuant to this section without the express written authorization issued to a person licensed to engage in towing pursuant to subchapter thirty-one of chapter two of title twenty of the code by the owner of such property, or his or her lessee. Such authorization shall include the location of the vehicle to be removed, the make, model, color and license plate number of such vehicle and a statement that such vehicle was removed pursuant to a notice of parking violation and shall be signed by the owner of such property, or his or her lessee, prior to removal.

2. A vehicle may not be removed if it is occupied by any person.

3. Notwithstanding any other provision of law, a vehicle which is removed shall be taken directly to a facility for storage maintained by the person licensed to engage in towing pursuant to subchapter thirty-one of chapter two of title twenty of the code who has removed such vehicle and which is within ten miles from the point of removal. If no such facility is available, the closest available facility for storage maintained by a person so licensed shall be utilized. Such facility for storage must be a secure place for safekeeping vehicles.

4. Any person who removes a vehicle pursuant to this section shall within thirty minutes of the vehicle's arrival at a facility for storage notify the local police precinct having jurisdiction over the area of such removal of the storage site, the time the vehicle was removed, the location the vehicle was removed from, the make, model, color and license plate number of the vehicle, the name of the person who signed an authorization for the removal and the fact that such vehicle was removed pursuant to a notice of parking violation and shall obtain the name of the person at such police precinct to whom such information was reported and note such name on a trip record together with the date and time that the vehicle was removed.

5. If the registered owner or other person in control of the vehicle arrives at the scene prior to removal of the vehicle and such vehicle is connected to any apparatus for removal, the vehicle shall be disconnected from such apparatus and such person shall be allowed to remove the vehicle without interference upon

payment of a reasonable service fee of not more than one-half of the charge allowed for removal as provided in paragraph eight of this subdivision, for which a receipt shall be given.

6. The registered owner or other person in control of a vehicle which has been removed pursuant to this section shall have the right to inspect the vehicle before accepting its return. No release or waiver of any kind which would release the person or company removing the vehicle from liability for damages may be required from any such owner or other person as a condition of release of the vehicle to such person. A detailed, signed receipt showing the legal name of the person or company removing the vehicle must be given to the person paying the removal and storage charges at the time of payment.

7. Any person who removes a vehicle pursuant to this section shall comply with the notice provisions of subdivision two of section one hundred eighty-four of the lien law.

8. Notwithstanding the charges permitted to be collected under subdivision c of section 20-519 of this code, a person who removes a vehicle pursuant to section 19-169 of this code may collect the following charges from the owner or other person in control of such vehicle, payable before the vehicle is released: one hundred dollars for removal and the first three days of storage; ten dollars per day for storage thereafter, except that no charge may be collected for removal or storage of a vehicle pursuant to this section by a person who is not licensed to engage in towing pursuant to subchapter thirty-one of chapter two of title twenty of the code.

9. This section does not apply to law enforcement, firefighting, rescue squad, ambulance, or other emergency vehicles which are marked as such.

10. When an owner of property, or his or her lessee, improperly causes a vehicle to be removed, such person shall be liable to the owner or other person in control of the vehicle for the cost of removal, transportation and storage and for any damage resulting from the removal, transportation and storage of the vehicle.

d. No person licensed pursuant to subchapter thirty-one of chapter two of title twenty of the code shall refuse, without justifiable grounds, a request by any person acting pursuant to this section to remove a vehicle unlawfully blocking a private driveway. Any person who violates this subdivision shall be punished as follows: for the first violation, a fine of one hundred dollars; for the second violation within a period of twelve months of the date of a first violation, a fine of two hundred dollars; and for any additional violations within a period of twenty-four months of the date of a first violation; a fine of five hundred dollars.

§ 19-169.1 Removal of vehicles improperly parked on private property. a. Notwithstanding any other provision of law, where a licensed tow operator removes a vehicle because it is parked on private property in a manner inconsistent with posted instructions, and such removal is pursuant to a contract between the owner of the private property and the licensed tow operator for the removal of any such improperly parked vehicles, such tow operator may collect the following charges from the vehicle owner or other person in control of such vehicle, payable before the vehicle is released: up to but not more than one hundred dollars for removal and the first three days of storage; up to but not more than ten dollars per day for storage thereafter; except that no charge may be collected for removal or storage of a vehicle pursuant to this section by a person who is not licensed to engage in towing pursuant to subchapter thirty-one of chapter two of title twenty of this code.

b. No owner or operator of parking facilities on private property shall tow or cause to be towed from such private property any motor vehicle unless such owner or operator shall conspicuously post and

maintain upon such private property a sign stating the name, address and telephone number of the tow operator, the hours of operation for vehicle redemption, towing and storage fees of the tow operator and the hours vehicles are prohibited from parking and subject to tow.

c. No vehicle shall be removed by a tow operator from private property without express written authorization by the owner of the private property or his or her agent as designated in the contract between the owner of the private property and the tow operator. Such authorization shall be required for each vehicle removed, and shall include the location, make, model, color and license plate number of the vehicle to be removed.

d. A vehicle may not be removed if it is occupied by any person.

e. Notwithstanding any other provision of law, a vehicle which is removed shall be taken directly to a facility for storage maintained by the person licensed to engage in towing pursuant to subchapter thirty-one of chapter two of title twenty of the code who has removed such vehicle and which is within city limits and no more than ten miles from the point of removal. If no such facility is available, the closest available facility for storage within New York city maintained by a person so licensed shall be utilized. Such facility for storage must be a secure place for safekeeping vehicles.

f. Any person who removes a vehicle pursuant to this section shall, within thirty minutes of the vehicle's arrival at a facility for storage, notify the local police precinct having jurisdiction over the area from which the vehicle was removed, as to the storage site, the time the vehicle was removed, the location from which the vehicle was removed, the name of the person who authorized the removal, and the fact that the removal was pursuant to a contract with the owner of the private property, and shall obtain the name of the person at such police precinct to whom such information was reported and note such name on a trip record together with the time and date that the vehicle was removed.

g. If the registered owner or other person in control of a vehicle arrives at the scene prior to the removal of the vehicle, and such vehicle is connected to any apparatus for removal, the vehicle shall be disconnected from such apparatus and such registered owner or other person in control of such vehicle shall be allowed to remove the vehicle from the premises without interference upon payment of a reasonable service fee of not more than one-half of the charge allowed for removal as provided in subdivision a of this section, for which a receipt shall be given. Each tow operator shall carry a legible copy of this section with this paragraph highlighted, and shall show it to a vehicle owner, or other person in control of the vehicle, who arrives at the scene prior to the removal of a vehicle.

h. The registered owner or other person in control of a vehicle which has been removed pursuant to this section shall have the right to inspect the vehicle before accepting its return. No release or waiver of any kind which would release the person or company removing the vehicle from liability for damages may be required from any such owner or other person as a condition of release of the vehicle to such person. A detailed, signed receipt showing the legal name of the person or company removing the vehicle must be given to the person paying the removal and storage charges at the time of payment.

i. When an owner of private property, his or her agent as designated in the contract with the tow operator, or a tow operator contracting with such owner causes a vehicle to be removed in violation of this section, there shall be no charge to the owner or other person in charge of the vehicle for the cost of removal and storage. Such person who has violated this section shall be liable to the owner or other person in control of the vehicle for any amounts actually paid for removal, transportation and storage of the vehicle, as well as for any damage resulting from the removal, transportation and storage of the vehicle.

j. Any person who violates this section shall be punished as follows: for the first violation, a fine of two hundred and fifty dollars; for the second violation within a period of twelve months of the date of the first violation, a fine of five hundred dollars; and for any additional violations within a period of twenty-four months of the date of a first violation, a fine of one thousand dollars.

k. No person may, under authority of this section, cause the removal of any ambulance, police vehicle, fire vehicle, civil defense emergency vehicle, emergency ambulance service vehicle, environmental emergency response vehicle, sanitation patrol vehicle, hazardous materials emergency vehicle or ordinance disposal vehicle of the armed forces of the United States.

§ 19-170 Limitation on parking of commercial vehicles. a. When parking is not otherwise restricted, no person shall park a commercial vehicle in excess of three hours. For purposes of this section, the term commercial vehicle shall mean a motor vehicle designed, maintained, or used primarily for the transportation of property.

b. Notwithstanding the foregoing, no person shall park a commercial vehicle on a residential street from 9 p.m. to 5 a.m. For the purpose of this subdivision, residential streets are defined as those streets, or parts thereof, which are located within a residential district under the zoning resolution. Where a commercial vehicle is parked in violation of this subdivision, it shall be an affirmative defense to said violation, with the burden of proof on the person who received the summons, that he or she was actively engaged in business at the time the summons was issued at a premises located within three city blocks of where the summons was issued. This subdivision shall not apply to vehicles owned or operated by gas or oil heat suppliers or gas or oil heat systems maintenance companies, the agents or employees, thereof, or any public utility.

c. A violation of this section shall be punishable by the monetary fine authorized for violation of the rules and regulations of the commissioner in paragraph one of subdivision a of section twenty nine hundred and three of the New York City Charter.

d. Any commercial vehicle parked in violation of subdivision a or b of this section shall be subject to impoundment by the department. Any motor vehicle impounded pursuant to the provisions of this subdivision shall not be released until all applicable towing and storage fees have been paid. The commissioner shall be authorized to promulgate regulations concerning the procedure for the impoundment of vehicles.

e. The sanctions and fees provided for in this section shall be in addition to any other sanctions, fees or remedies provided by law or regulation.

§ 19-171 Horse drawn cab stands. The commissioner shall designate by regulation specific locations on the streets, avenues and roadways which shall be, on and after a date when such regulation shall become effective, the sole locations where passengers may board horse drawn cabs.

*§ 19-172 Private streets; names, restrictions of. a. It shall be unlawful for any private street or thoroughfare to bear a name similar to a street or thoroughfare officially named.*

*b. Any person convicted of a violation of the provisions of this section shall be punished by a fine of not more than ten dollars, imprisonment for not more than ten days, or both.*

*§ 19-173 Subway gratings; sweeping into. a. It shall be unlawful for any person to sweep any substance from a sidewalk or other place into a grating used for the purpose of ventilating any subway railroad.*

*b. Any person convicted of a violation of this section shall be punished by a fine of not more than fifty dollars, imprisonment for not more than ten days, or both.*

§ 2. Paragraph (5) of subdivision a of section 20-211 of such code, as amended by local law number 1 for the year 1989, is amended to read as follows:

(5) Fixed stand coin operated kiddie devices. Notwithstanding any other provisions of the code, the commissioner is empowered to license any mechanically or electrically coin operated pony, horse, boat, airplane and/or equipment of similar design which may be placed on a stationary platform or stand within any premises to which the public is invited or placed upon the sidewalk immediately adjacent to such premises, and which devices are to provide an up and down rocking and/or circular motion for the enjoyment of not more than two people at a time. The commissioner shall promulgate such rules and regulations as he or she deems proper with respect to the granting and issuance of such licenses and the location and operation of any device licensed pursuant to this section. Such rules and regulations shall require at a minimum, that such devices, if located on the sidewalk, shall not extend further than five feet from the front of the building line and shall be placed in such a manner so that no less than a width of nine and one-half feet shall be maintained on the sidewalk without obstruction for pedestrian movement. No more than three such devices may be licensed for operation upon the sidewalk immediately adjacent to any one commercial establishment. Licenses for such devices may not be approved for locations where street obstructions are prohibited pursuant to paragraphs 5 through 27 of subdivision a of section [19-145] 19-136 of the code. Where exigent circumstances exist and a police officer or other authorized officer or employee of any city agency gives notice to a licensee, or an authorized agent of such licensee, hereunder to temporarily move such a device from any location such licensee or authorized agent shall move said device from such location. If any licensee of a fixed stand coin operated kiddie device maintained or operated upon a sidewalk, or an authorized agent of such person, does not remove such device when directed to do so by a police officer or other authorized officer or employee of the city in accordance with the provisions of this paragraph, such officer or employee is authorized to provide for the removal of such device to any garage, automobile pound or other place of safety, and the owner or other person lawfully entitled to the possession of such device may be charged with reasonable costs for removal and storage, payable prior to the release of such device. For the purposes of this paragraph, exigent circumstances shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public space, an accident, fire or other emergency situation, a parade, demonstration or other such event or occurrence at or near such location.

§ 3. Section 24-507 of such code is amended to read as follows:

§ 24-507 Private sewers and drains. a. The commissioner of environmental protection may issue permits to persons to construct sewers or drains, or to connect with any sewers or drains built in any street, at their own expense. Such permission shall be granted only upon the agreement, in writing, of the persons applying therefor:

1. That they will comply with the provisions of sections 24-521, [19-149, 19-150, 19-153, 19-155, 19-158,] 3-508 and 3-509 and of subchapter one of chapter one of title nineteen of the code;
2. That they will indemnify the city for any damages or costs to which it may be put by reason of injuries resulting from neglect or carelessness in the performance of the work so permitted;
3. That they or their successors in interest will make no claim against the city if the work so permitted shall be taken up by [authority of the board of estimate] *the city*.

b. The [board of estimate] *commissioner of environmental protection*, at any time, may revoke such permit and direct such sewers or drains to be taken up or removed.

§ 4. Paragraph 4 of subdivision a of section 24-513 of such code is amended to read as follows:

4. That they will faithfully comply with the provisions of section eighty-six of the charter, *subchapter one of chapter one of title nineteen* and sections [19-149, 19-150, 19-153, 19-155, 19-158,] 3-508 and 3-509 of the code;

§ 5. Subdivisions a and c of section 24-521 of such code are amended to read as follows:

a. Notice to public service corporations. Whenever any sewer, culvert, water main or pipe is to be constructed, altered or repaired in any street in which the pipes, mains or conduits of public service corporations are laid, the contractor therefor shall give notice thereof in writing to such corporations, at least [twenty-four] *forty-eight* hours before breaking ground therefor. Such provision shall be included in every contract for constructing, altering or repairing any sewer or culvert, water main or pipe, in any street in which the pipes, mains or conduits of public service corporations shall be laid at the time of making such contract.

c. The enforcement of subdivisions a and b hereof shall be pursuant to [section] *sections 19-149, 19-150 and 19-151* of the code.

§ 6. Section 27-315 of such code is amended to read as follows:

§ 27-315 Restrictions on construction and projections on certain streets, parkways, boardwalks and beaches. Notwithstanding the foregoing provisions of this article, it shall be unlawful to build, erect, make areaways, steps or other projections prohibited by sections [19-137, 19-138, 19-142,] *19-131, 19-132, 19-135, 18-109, 18-112 and 18-113* of the code.

§ 7. Subdivision (k) of section 27-901 of such code is amended to read as follows:

(k) Disposal of storm water. Storm water falling or coming to rest on property on which new buildings or substantial horizontal enlargements are to be constructed, and on all streets and other paved areas constructed or altered in connection with the construction of such new buildings or substantial horizontal enlargements, shall be disposed of in accordance with the requirements of reference standard RS-16 and the rules and regulations of the department of environmental protection. No person providing a system for disposing of storm water, as required by this subdivision, shall in any way alter, relocate or affect any existing drainage system on the property, except in accordance with the provisions of section [19-146] *19-137* of title nineteen of the administrative code. Except as otherwise permitted by this code, no person shall perform land contour work, as defined in section [19-146] *19-137* of this code, which work causes storm water to flow across sidewalks or onto an adjacent property. For purposes of this subdivision, the term "substantial horizontal enlargement" shall have the meaning given such term in subdivision (a) of section P110.2 of reference standard RS-16.

§ 8. This local law shall take effect thirty days after it shall have been enacted into law and shall apply to violations committed on and after such effective date; provided, however, that the amendments made to paragraph 1 of subdivision i of section 19-124, paragraph 1 of subdivision e of section 19-137, and paragraph (2) of subdivision j of section 19-152 of the administrative code of the city of New York by section one of this local law, insofar as they relate to the rate of interest on unpaid charges, shall apply to charges which become or remain due on or after the effective date of this local law, and further provided

that the interest rate which becomes applicable as a result of such amendments shall not be utilized in computing interest for any period prior to such effective date. The commissioner of transportation and the environmental control board may, prior to such effective date, promulgate any rules or take any other actions necessary for the timely implementation of this local law.