

**LOCAL LAWS**  
**OF**  
**THE CITY OF NEW YORK**  
**FOR THE YEAR 1990**

**No. 82**

Introduced by Council Member Berman (by request of the Mayor); also Council Members O'Donovan and Horwitz.

**A LOCAL LAW**

To amend the administrative code of the City of New York, in relation to business improvement districts.

*Be it enacted by the Council as follows:*

Section 1. Section 25-403 of the administrative code of the City of New York, as added by local law number 96 for the year 1989, is amended to read as follows:

§ 25-403 Contents of the district plan. The district plan shall contain the following:

- (a) a map of the district;
- (b) the written report or reports of the [board of estimate] *city council* containing:
  - (1) a description of the boundaries of the district proposed for establishment or extension in a manner sufficient to identify the lands included;
  - (2) a description of the present and proposed uses of such lands;
  - (3) the improvements proposed and the maximum cost thereof;
  - (4) the total annual amount proposed to be expended for improvements, maintenance and operation;
  - (5) the proposed source or sources of financing;
  - (6) the proposed time for implementation and completion of the district plan;
  - (7) any proposed rules and regulations to be applicable to the district;
  - (8) a list of the properties to be benefited, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property, in proportion to the benefit received by such property, to defray the cost thereof, including operation and maintenance. Notwithstanding any inconsistent provision of section 25-407 of this chapter, the plan may provide that all or any class or category of real property which is exempt by law from real property taxation and which would not benefit from the establishment or extension of the district may nevertheless be included within the boundaries of the district but such property shall not be subject to any district charge;
  - (9) a statement identifying the district management association for the district; and
  - (10) any other item or matter required to be incorporated therein by the [board of estimate] *city council*.

§ 2. Section 25-404 of the administrative code of the City of New York, as renumbered and amended by local law number 96 for the year 1989, is amended to read as follows:

§ 25-404 Powers of the [board of estimate] *city council*. Upon establishment of a district pursuant to the provisions of this chapter, the [board of estimate] *city council* shall have authority

to exercise the following powers with respect to such district, subject to the provisions of this chapter:

(a) To provide for [the following] district improvements located on or within municipally or district owned or leased property which will restore or promote business activity in the district:

- (1) construction and installation of landscaping, planting, and park areas;
- (2) construction of lighting and heating facilities;
- (3) construction of physically aesthetic and decorative safety fixtures, equipment and facilities;
- (4) construction of improvements to enhance security of persons and property within the district;
- (5) construction of pedestrian overpasses and underpasses and connections between buildings;
- (6) closing, opening, widening or narrowing of existing streets;
- (7) construction of ramps, sidewalks, plazas, and pedestrian malls;
- (8) rehabilitation or removal of existing structures as required;
- (9) removal and relocation of utilities and vaults as required;
- (10) construction of parking lot and parking garage facilities; and
- (11) construction of fixtures, equipment, facilities and appurtenances as may enhance the movement, convenience and enjoyment of the public and be of economic benefit to surrounding properties such as: bus stop shelters; benches and street furniture; booths, kiosks, display cases, and exhibits; signs; receptacles; canopies; pedestrian shelters and fountains.

(b) To provide for the operation and maintenance of any district improvement;

(c) To provide for additional maintenance or other additional services required for the enjoyment and protection of the public and the promotion and enhancement of the district whether or not in conjunction with improvements authorized by this section, including:

- (1) enhanced sanitation services;
- (2) services promoting and advertising activities within the district;
- (3) marketing education for businesses within the district;
- (4) decorations and lighting for seasonal and holiday purposes; and
- (5) services to enhance the security of persons and property within the district.

§ 3. Section 25-405 of the administrative code of the City of New York, as renumbered and amended by local law number 96 for the year 1989, is amended to read as follows:

§ 25-405 District plan.

(a) The [board of estimate] *mayor* may provide [by resolution] for the preparation of a district plan, upon [its] *his or her* own [motion] *initiative*, or at the request of [the mayor or] an individual or agency designated by him or her, or [by] *at the request of* the city council, or upon the written petition, signed and acknowledged, of (1) the owners of at least fifty-one percent of the assessed valuation of all the taxable real property within the boundaries of the district proposed for establishment or extension, as shown upon the latest completed assessment roll of the city, and (2) at least fifty-one percent of the owners of real property within the area included in the district proposed for the establishment or extension.

(b) The establishment or extension of a district shall be based upon the district plan filed in the office of the city clerk, except as provided in subdivision (c) of this section.

(c) The district plan shall first be submitted to the city planning commission in which shall forward a copy within five days to the city council and to the council member or members representing the council district or districts in which the proposed district is located, to the community board or boards for the community district or districts in which the proposed

district is located, and to the respective borough board *and borough president*, if the plan involves properties located in two or more community districts. Each community board shall notify the public of the proposed plan in accordance with the requirements established by the city planning commission, and may conduct a public hearing and submit a written recommendation to the city planning commission not later than thirty days after receipt of the plan. The city planning commission shall review the plan and recommendations, and, after a public hearing, prepare a report. The city planning commission shall submit its report to the [board of estimate] *mayor, to the affected borough president*, to the city council and to the council member or members representing the council district or districts in which the proposed district is located, together with copies of any recommendation of a community board, within sixty days from the date of expiration of the community board's period for reviewing the plan and submitting recommendations. This report shall certify the city planning commission's unqualified approval, disapproval or qualified approval with recommendations for modifications of the district plan. A copy of this report together with the original district plan shall be transmitted for filing with the city clerk. In the event the city planning commission shall fail to submit its report within ninety-five days of receipt of the original district plan, it shall be required to immediately transmit the original plan to the city clerk for filing and no report of the city planning commission shall be necessary.

(d) All district plans shall conform with the requirements of this chapter. The [board of estimate] *mayor* may determine that the plan or any part of the plan, shall be prepared by, or under the supervision of city officers and employees to be designated by the [board of estimate] *mayor*, or by persons or firms to be employed for that purpose. Except as otherwise provided in this chapter, the expense incurred for the preparation of the plan or part of the plan shall be a city charge.

(e) If the city shall thereafter establish or extend the district or provide the improvements or additional services or contract for the required services, the expense incurred by the city for the preparation of the plan or any part of the plan shall be deemed to be part of the cost of the improvement, or the rendering of additional services, and the city shall be reimbursed in the amount paid, or the portion of that amount which the [board of estimate] *city council*, at a public hearing held pursuant to this chapter, shall allocate against the district.

§ 4. Section 25-406 of the administrative code of the City of New York, as renumbered and amended by local law number 96 for the year 1989, is amended to read as follows:

§ 25-406 Notice and hearing.

(a) After the filing of the district plan in the office of the city clerk, the [board of estimate] *city council* may adopt a resolution and shall enter the same in the minutes of its proceedings [and shall submit a copy of same to the city council]. This resolution shall contain a copy of the district plan, any report of the city planning commission or board, the fact that a district plan is on file in the city clerk's office for public inspection and the time when and the place where the [board of estimate] *city council* will meet and hold a public hearing to hear all persons interested in the subject thereof.

(b) The resolution shall also contain a statement that any owner of real property, deemed benefited and therefore within the district, objecting to the plan must file an objection at the office of the city clerk within thirty days of the conclusion of the hearing on forms made available by the clerk, and, further, that if (1) owners of at least fifty-one percent of the assessed valuation of all the benefited real property situated within the boundaries of the district proposed for establishment or extension, as shown upon the latest completed assessment roll of the city, or (2) at least fifty-one percent of the owners of benefited real property within

the area included in the district proposed for establishment or extension, so file their objections, the district will not be established or extended.

(c) The [board of estimate] *city council* shall cause a copy of the resolution or a summary thereof to be published at least once in the City Record or a newspaper in general circulation in the city, the first publication to be not less than ten nor more than thirty days before the day set for the hearing required by this section. In addition, not less than ten nor more than thirty days before the date set for the hearing, the [board of estimate] *city council* shall cause a copy of the resolution or a summary thereof to be mailed to each owner of real property within the proposed district at the address shown on the latest city assessment roll, to such other persons as are registered with the city to receive tax bills concerning real property within the proposed district, and to the tenants of each building within the proposed district. If the [board of estimate] *city council* publishes or mails a summary of the resolution, such summary shall include the business address of the city clerk, a statement that copies of the resolution shall be made available free of charge to the public, the improvements proposed and the maximum cost thereof, the total *annual* amount proposed to be expended for improvements, maintenance and operation, and a statement indicating the rights of owners to object pursuant to subdivision (b) of this section.

(d) The resolution may further state the place, other than the city clerk's office, where the district plan may be inspected in advance of the hearing, if the [board of estimate] *city council* determines that, in the public interest, any additional place of inspection is necessary or desirable.

§ 5. Section 25-407 of the administrative code of the City of New York, as renumbered and amended by local law number 96 for the year 1989, is amended to read as follows:  
§ 25-407 Establishment or extension of the district.

(a) Not earlier than thirty days after the conclusion of the last day of the public hearing held pursuant to section 25-406 of this chapter, the [board of estimate] *city council* shall determine:

- (1) whether the notice of hearing for all hearings required to be held was published and mailed as required by law and is otherwise sufficient;
- (2) except as otherwise provided in section 25-403 of this chapter, whether all the real property within the boundaries of the proposed district or extension will benefit from the establishment or extension of the district;
- (3) whether all the real property benefited is included within the limits of the proposed district or extension; and
- (4) whether the establishment or extension of the district is in the public interest.

(b)(1) If the [board of estimate] *city council* shall determine the question of paragraph four of subdivision (a) of this section in the negative, or if the requisite number of owners shall have filed their objections as provided in section 25-406 of this chapter, the [board of estimate] *city council* shall adopt a resolution disapproving the establishment or extension of the district, stating the reasons for its determination and enter the same in the minutes of its proceedings. Thereafter no plan for the establishment or extension of a district to include any part of the property proposed to be included in the disapproved district may be prepared as provided in section 25-405 of this chapter until the expiration of at least one year from the date of disapproval.

(2) If the [board of estimate] *city council* shall find that notice was incorrectly or insufficiently given or that, except as otherwise provided in section 25-403 of this chapter, any part or portion of the real property within the boundaries of the proposed district or extension is not benefited thereby or that certain property benefited thereby has not been included

therein, it shall call a further hearing at a definite place and time not less than ten nor more than thirty days after this determination. In the resolution calling such hearing, it shall specify the necessary changes, if any, to the boundaries of the proposed district or extension to be made in order that, except as otherwise provided in section 25-403 of this chapter, all of the real property and only that real property as is deemed benefited shall be included within the boundaries of the proposed district or extension. Such a further hearing shall also be required in the event that the [board of estimate] *city council* proposes to amend the district plan to reduce improvements or services or provide additional improvements or services not included in the original plan prior to the establishment of the district. Notice of the further hearing shall be published and mailed in the manner provided in section 25-406 of this chapter, except that, where boundaries are to be altered, this notice shall also specify the manner in which it is proposed to alter the boundaries of the proposed district or extension. The further hearing shall be conducted in the same manner as the original hearing.

(c) If and when the [board of estimate] *city council* shall determine in the affirmative all of the questions set forth in subdivision (a) of this section, and provided that the requisite number of owners shall not have objected as provided in section 25-406 of this chapter, it may adopt a [resolution] *local law* approving the establishment or extension of the district as the boundaries shall be finally determined and the construction of the improvement or providing of the service in the district. Such [resolution] *local law* shall become effective only upon compliance with section 25-408 of this chapter.

(d) [In addition to complying with the foregoing, the board of estimate may:

(1) if the city planning commission shall have certified its unqualified approval of the plan, approve the plan by a majority vote;

(2) if the city planning commission shall have certified its disapproval or shall have failed to submit its report within ninety-five days for the date such plan was submitted to it, approve such plan, by a three-fourths vote; or

(3) if the city planning commission shall have certified its qualified approval together with recommendations for modifications, approve the plan, together with modifications recommended by the city planning commission, by a majority vote, or approve the plan without such modifications by a three-fourths vote.

(e) Upon the recommendation of the district management association and after a public hearing, the [board of estimate] *city council* may adopt a [resolution] *local law* at any time prior to or after the establishment of a district to change the method of assessment as set forth in the plan. Notice of such public hearing and a description of the proposed change shall be given in the manner set forth in section 25-406 of this chapter.

§ 6. The first undesignated paragraph of subdivision (b) of section 25-408 of the administrative code of the City of New York, as amended by local law number 96 for the year 1989, is amended to read as follows:

(b) Within twenty days after the adoption of a [resolution] *local law* by the [board of estimate] *city council* pursuant to section 25-407 or subdivision (c) of section 25-410 of this chapter the mayor[, or such other officer of the city as the board of estimate shall determine,] shall forward the following information to the state comptroller at Albany, New York:

§ 7. Subdivision (e) of section 25-408 of the administrative code of the City of New York, as amended by local law number 96 for the year 1989, is amended to read as follows:

(e) Upon the city's compliance with any other requirements established by law, the [resolution of the board of estimate] *local law* adopted pursuant to section 25-407 of this chapter shall become effective. [Provided, however, that the city council may, within thirty days of the expiration of the state comptroller's review period, act by resolution to disapprove the dis-

trict's establishment or extension, as the case may be, any inconsistent provision of law notwithstanding.]

§ 8. Section 25-409 of the administrative code of the City of New York, as renumbered and amended by local law number 96 for the year 1989, is amended to read as follows:

§ 25-409 Publication; filing; judicial review.

(a) The city clerk shall cause a certified copy of the [resolution of the board of estimate] *local law* adopted pursuant to the provisions of this chapter establishing or extending any district, or increasing the maximum total amount proposed to be expended for the improvement in any district or extension, or changing the method of assessment, or authorizing the district to incur debt to provide for additional improvements or services within the district, to be duly recorded in the city clerk's office within ten days after such [resolution] *local law* becomes effective. When so recorded this [resolution] *local law* shall be presumptive evidence of the regularity of the proceedings for the establishment or extension of the district, of the proceedings instituted for the construction of any improvement and of all other actions taken in relation to it.

(b) Within ten days after the [resolution] *local law* becomes effective, the city clerk shall, in addition to any other filing required by law, cause a certified copy thereof to be filed in the office of the state comptroller at Albany, New York, and within two weeks thereafter shall cause a copy of the [resolution] *local law* or a summary thereof to be published at least once in the City Record or a newspaper of general circulation in the city.

(c) This [resolution] *local law* shall be final and conclusive unless a proceeding to review is commenced in accordance with this subdivision. Any person aggrieved by any [resolution] *local law* adopted pursuant to this chapter may seek judicial review of the [resolution] *local law* in the manner provided by article seventy-eight of the civil practice law and rules, provided the proceeding is commenced within [sixty] *thirty* days from the date of the publication of the copy or summary of the [resolution] *local law* pursuant to subdivision (b) of this section. No review shall be had unless the petitioner shall give an undertaking approved by the supreme court, or a justice thereof, as to form, amount and sufficiency of sureties, that, in the event of failure to modify the [resolution] *local law*, he or she will pay to the city all costs and expenses as are incurred by it on account of the proceedings, as shall be determined by the court. In the event that upon this review there shall be any modification by the court of the [resolution] *local law*, the court shall direct the modification by judgment which shall be final and conclusive, and the city clerk shall cause the judgment to be recorded and filed in the same places and manner as was the [resolution] *local law* which was modified.

§ 9. Section 25-410 of the administrative code of the City of New York, as renumbered and amended by local law number 96 for the year 1989, is amended to read as follows:

§ 25-410 Amendments to the district plan.

(a) At any time after the establishment or extension of a district pursuant to the provisions of this chapter, the district plan upon which the establishment or extension was based, may, upon the recommendation of the district management association, be amended by the [board of estimate] *city council* after compliance with the procedures set forth in this section.

(b) Amendments to the district plan which provide for additional improvements or services or any change in the method of assessment upon which the district charge is based, or an increase only in the amount to be expended annually for improvements, services, maintenance and operation may be adopted by [resolution of the board of estimate] *local law*, provided that the [board of estimate] *city council* shall, after a public hearing, determine that it is in the public interest to authorize the additional improvements, services or increase [of] *in* the maximum annual amount and that the tax and debt limits prescribed in section 25-412 of this chap-

ter will not be exceeded. The [board of estimate] *city council* shall give notice of the hearing by publication of a notice in at least one newspaper having general circulation in the district specifying the time when and the place where the hearing will be held and stating the increase proposed in the maximum amount to be expended annually. This notice shall be published once at least ten days prior to the date specified for the hearing.

(c) Amendments to the district plan which provide for the district to incur indebtedness in order to provide for additional improvements or which provide for an increase in the total maximum amount to be expended for improvements in the district, may be adopted by [resolution of the board of estimate] *local law*, provided that the [board of estimate] *city council* shall, after a public hearing, determine that it is in the public interest to authorize the district to incur indebtedness to provide for additional improvements or to increase the maximum total amount to be expended for improvements in the district and that the tax and debt limits prescribed in section 25-412 of this chapter will not be exceeded. Notice of the hearing shall be published and mailed in the manner provided in section 25-406 of this chapter. The [resolution] *local law* adopted pursuant to this subdivision shall not be effective until reviewed by the state comptroller in accordance with section 25-408 of this chapter.

§ 10. Section 25-414 of the administrative code of the City of New York, as renumbered and amended by local law number 96 for the year 1989, is amended to read as follows:

§ 25-414 District management association.

(a) There shall be a district management association for each district established pursuant to the provisions of this chapter (which shall pursuant to the not-for-profit corporation law have one or more classes of membership, voting or nonvoting) for the purpose of carrying out such activities as may be prescribed in the plan. Notwithstanding any inconsistent provision of paragraph (e) of section six hundred eleven of the not-for-profit corporation law, the certificate of incorporation or by-laws of such association shall provide for voting representation of owners of property and tenants within the district, and may provide that the votes of members who are property owners be weighted in proportion to the assessment levied or to be levied against the properties within the district, provided that in no case shall the total number of votes assigned to any one such member or to any number of such members under common ownership or control exceed thirty-three and one-third percent of the total number of votes which may be cast.

(b) The board of directors of the association shall be composed of representatives of owners and tenants within the district, provided, however, that not less than a majority of its members shall represent owners and provided further that tenants of commercial space and dwelling units within the district shall also be represented on the board. The board shall include, in addition, four members, one member appointed by each of the following: the mayor, the comptroller, the borough president of the borough in which the district is located and the council member representing the council district in which the proposed district is located, or if the proposed district is located in more than one council district, by the [majority leader] *speaker* of the city council after consultation with the council members representing the council districts in which the proposed district is located. The additional four members shall serve as the incorporators of the association pursuant to the not-for-profit corporation law. The association may be incorporated prior to the effective date of any district established pursuant to this chapter.

(c) In addition to such other powers as are conferred on it by law, the district management association may make recommendations to the [board of estimate] *city council* with respect to any matter involving or relating to the district.

(d) For such consideration as it may deem appropriate and consistent with the powers granted pursuant to section 25-404 of this chapter, the [board of estimate] *city council* may license or grant to the district management association the right to undertake or permit commercial activities or other private uses of the streets or other parts of the district in which the city has any real property interest.

§ 11. Subdivision (a) of section 25-415 of the administrative code of the City of New York, as amended by local law number 96 for the year 1989, is amended to read as follows:

(a) Any district established or extended pursuant to the provisions of this chapter, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be dissolved by [resolution] *local law* of the [board of estimate] *city council* upon its own motion or upon the written petition of (1) the owners of at least fifty-one percent or more of the total assessed valuation of all benefited real property included in the boundaries of the district and (2) at least fifty-one percent of the owners of benefited real property within the area included in the district. The [board of estimate] *city council* shall request and consider the recommendations of the district management association concerning any proposed dissolution; provided that if the association has not submitted recommendations to the [board of estimate] *city council* within sixty days after request therefor, the [board of estimate] *city council* may adopt any such proposed dissolution without considering such recommendations. In the event of dissolution, all assets of the district shall revert to the city.

§ 12. Section 25-416 of the administrative code of the City of New York, as amended by local law number 96 for the year 1989, is amended to read as follows:

§ 25-416 Existing districts. [The provisions of this chapter shall not be deemed or construed to apply to any special improvement or assessment district established in the city prior to February eighteenth, nineteen hundred eighty-two pursuant to any other provision of law.] Any special improvement or assessment districts, or any business improvement districts established [after February eighteenth, nineteen hundred eighty-two] pursuant to [any other provision of] *article two-B of the general city law*, or any districts having filed an application with the state comptroller as provided in such [law] *article* prior to the effective date of chapter two hundred eighty-two of the laws of nineteen hundred eighty-nine, shall be subject to the provisions of this chapter but shall not be required to comply with any provisions of this chapter which are contrary to or more restrictive than those under which the district was established or proposed to be established as evidenced by an application filed with the state comptroller prior to the effective date of chapter two hundred eighty-two of the laws of nineteen hundred eighty-nine. Any reference to [any prior] *article two-B of the general city law* or *any* section thereof in any *state or local law*, plan or agreement shall be deemed to be a reference to [chapter two hundred eighty-two of the laws of nineteen hundred eighty-nine] *article nineteen-A of the general municipal law*, or the appropriate provision of such [chapter] *article*.

§ 13. Section 25-417 of the administrative code of the City of New York, as added by local law number 96 for the year 1989, is amended to read as follows:

§ 25-417 Severability. If any provision of any section of this chapter or the application thereof to any person or circumstance shall be adjudged invalid by any court of competent jurisdiction, such order [of] *or* judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provisions of any section of this chapter or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this chapter are hereby declared to be severable.

§ 14. *Any resolution adopted by the board of estimate pursuant to chapter 4 of title 25 of the administrative code prior to September 1, 1990 shall be valid, provided, however, that*



~~such further action with respect to such resolution as is authorized by such chapter shall be in accordance with this local law, except, that if the board of estimate shall have adopted a resolution approving the establishment or extension of a district pursuant to section 25-407 of such chapter prior to September 1, 1990, which resolution shall not have become effective prior to September 1, 1990, then the city council may, within thirty days of the expiration of the state comptroller's review period, act by resolution to disapprove the district's establishment or extension as the case may be, any inconsistent provision of law notwithstanding.~~

§ 15. This local law shall take effect immediately and shall be retroactive to and deemed to have been in full force and effect as of September 1, 1990.

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

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 20, 1990, and approved by the Mayor on December 31, 1990.

CARLOS CUEVAS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 82 of 1990, Council Int. No. 567) contains the correct text and:

Received the following vote at the meeting of the New York City Council on December 20, 1990: 31 for, 0 against.

Was approved by the Mayor on December 31, 1990.

Was returned to the City Clerk on January 2, 1991.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel