

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1993**

No. 51

Introduced by Council Member Horwitz (By the request of the Mayor); also Council Members Foster, Harrison and Robinson--(Passed under A Message of Necessity from the Mayor).

A LOCAL LAW

To amend the New York city charter and the administrative code of the city of New York, in relation to creating a department of homeless services the function of which will be to provide transitional housing and services to homeless families and individuals, and to amend section 603 of such charter relating to the designation of the commissioner of social services.

Be it enacted by the Council as follows:

Section 1. Legislative declaration of intent. Homelessness is perhaps one of the most serious and visible challenges faced by New York City. Despite the unprecedented level of resources and efforts devoted to addressing the problem, presently, close to 6,000 families with 9,700 children, and 7,500 individuals still reside in transitional housing. At the same time, thousands who have chosen not to enter the shelter system continue to inhabit parks, transportation facilities and City streets.

Mayor David N. Dinkins and City Council Speaker Peter F. Vallone have each appointed commissions to review New York City's programs for the homeless and to formulate more effective responses to the crisis of homelessness.

The commission appointed by the Mayor, known as the "Cuomo Commission", reported that, since the late seventies, the homeless population has changed dramatically. That population began to include a growing number of young women with children and, among individual homeless persons, more younger men. The traditional social services alternatives to government were not prepared to address the problem. The deinstitutionalization of mental patients from the State system, coupled with a burgeoning epidemic of substance abuse, along with the gentrification of SRO residences, contributed to the dramatic increase in the homeless census.

The Cuomo Commission undertook an extensive analysis of the shelter system and the homeless population. A significant number of shelter residents were identified as suffering serious health and mental health problems. In addition, the Commission

identified substance abuse, particularly among homeless individuals, as a significant problem requiring a combination of treatment and services in addition to transitional housing. The Commission found that homelessness is frequently a symptom of some underlying problem, such as lack of job skills or education, substance abuse, or mental illness. It results when one or more of these problems interacts with a number of social and economic factors, including a shortage of affordable housing. The Commission concluded that a radical departure from current operations and proposals is required, finding that "a new entity must be created to develop and implement the City's homeless policies and programs." It proposed that responsibility for the operation and construction of transitional facilities and the provision of services to the homeless should be transferred from the Human Resources Administration and the Department of Housing Preservation and Development to the newly established entity.

In light of the Cuomo Commission recommendations, in September of 1992 the Mayor announced his plan to restructure the City's shelter system. The plan represented a shift in emphasis from shelter development and expansion of shelter capacity to preventing homelessness through providing public entitlements and benefits; providing a broad array of transitional services in appropriate residential facilities which foster self-esteem, recovery, empowerment and re-integration into communities; and providing permanent housing resources and aftercare services for individuals and families to insure a successful transition back to the community.

Mayor Dinkins issued Executive Order Number 42 on December 2, 1992 creating the Mayor's Office for Homeless Facilities and Service Development to oversee the establishment of a new City agency for the homeless.

The Council finds and declares that, as recommended by the Cuomo Commission, the proposed Department of Homeless Services should be charged with providing assistance to those who become homeless and expediting the availability of permanent housing options, and working with other governmental and private bodies to develop programs to achieve system-wide changes dealing with the causes of homelessness. It will provide the continuum of care required to regain and maintain stable, permanent living situations. In providing this continuum of care, the Department of Homeless Services will establish a partnership with both for-profit and not-for-profit providers to provide the shelter and assistance that homeless individuals and families need.

Through this legislation the Council and Mayor intend to implement a comprehensive policy on homelessness by creating an agency with an identifiable mission and stated goals.

§2. Section 603 of the New York city charter, as amended by local law number 96 for the year 1968, is amended to read as follows:

§ 603. Powers and duties. *Except as otherwise provided in chapter 24-A, [The] the commissioner shall have the powers and perform the duties of a commissioner of social services under the [Social Services Law] social services law, provided that no form of outdoor relief shall be dispensed by the city except under the provisions of state or local law which specifically provide the method, manner and conditions of dispensing the same.*

§3. The New York city charter is amended by adding a new chapter 24-A to read as follows:

**CHAPTER 24-A
DEPARTMENT OF HOMELESS SERVICES**

§610. *Department; commissioner.* There shall be a department of homeless services the head of which shall be the commissioner of homeless services.

§611. *Deputies.* The commissioner shall appoint at least one deputy.

§612. *Powers and duties.* a. The commissioner shall have the powers and perform the duties of a commissioner of social services under the social services law for the purpose of fulfilling his or her responsibilities under this chapter. In the performance of his or her functions, the commissioner shall:

1. be responsible for transitional housing and services provided by the city for eligible homeless families and individuals. The commissioner shall encourage the participation of and receive proposals from the public and private sectors for the development of transitional housing and services for homeless families and individuals. In performing such duties, the commissioner may develop and issue requests for such proposals and evaluate responses thereto, negotiate, award, and administer contracts, loans or other agreements, and obtain all necessary approvals. For-profit and not-for-profit entities shall be eligible to submit proposals, bid on contracts and other agreements, and apply for grants and loans;

2. plan and implement a redesign and restructuring of the system for the provision of transitional housing and services for homeless families and individuals;

3. in consultation with other appropriate governmental agencies, plan housing for homeless families and individuals;

4. develop programs designed to improve access of homeless families and individuals to existing housing;

5. maintain, repair and rehabilitate transitional housing owned, operated or managed by the department;

6. establish performance criteria, goals and objectives with respect to contract providers and monitor and evaluate such performance; and

7. in consultation with other appropriate governmental agencies, develop and operate outreach programs to identify and assist families and individuals who are homeless and living in public spaces and participate in the development of prevention programs to assist families and individuals who are in imminent danger of becoming homeless.

b. In addition to the duties set forth in subdivision a of this section, the commissioner is authorized, in consultation with appropriate agencies, to provide any other services he or she deems necessary to implement and effectuate the provisions of this chapter.

§4. The administrative code of the city of New York is amended by adding a new title 21-A to read as follows:

**TITLE 21-A
DEPARTMENT OF HOMELESS SERVICES**

§21-301 *Definitions.* Whenever used in this title, the following terms shall be defined as follows:

a. "Commissioner" shall mean the commissioner of homeless services.

b. "Department" shall mean the department of homeless services.

c. "Eligible homeless person" shall mean a person eligible for transitional housing or services from the department pursuant to federal, state and local laws and such rules and regulations as may be promulgated pursuant thereto.

§21-302. Housing-readiness training and aftercare programs. a. The commissioner shall establish, maintain and operate housing-readiness training for all eligible homeless persons determined to be in need of such training. This training shall include such subjects as the commissioner shall determine are necessary to enable such eligible homeless persons to acquire the skills necessary for adjustment to and remaining in permanent housing.

b. The commissioner shall establish, maintain and operate aftercare programs to assist eligible homeless persons who have been placed in permanent housing to adjust to and remain in such housing. The commissioner shall determine the period for which such eligible homeless persons may remain in aftercare programs. For the purposes of this section, aftercare shall be defined to include, but not be limited to, follow-up case management services and assisting formerly eligible homeless persons who have been placed in permanent housing to access needed services in their communities.

§21-303 Training and supervision of housing specialists. Housing specialists shall be available to serve in each transitional housing facility used, owned, operated, managed or contracted for, by or on behalf of the department. Where housing specialists are placed in transitional housing facilities and are employed by not-for-profit or for-profit operators of such facilities, the commissioner shall establish a training program for such housing specialists which shall include, but not be limited to, establishing expertise in the various housing programs to which eligible homeless persons may be referred and proper case management techniques. The commissioner shall develop definite program goals and timetables by which he or she shall assess the performance of housing specialists in matching as expeditiously as possible eligible homeless persons with available housing resources.

§21-304 Computerization. In order to ensure that the delivery of services provided by the department to eligible homeless persons is efficiently coordinated with the services provided by the human resources administration to such persons, the commissioner shall, to the maximum extent possible and in conformance with federal and state confidentiality laws, develop computer systems which can easily access and share data with human resources administration computer systems regarding such persons. The commissioner may appoint an interagency computer liaison to facilitate such interagency communication and information sharing.

§21-305 Permanent housing resource clearinghouse. The commissioner shall establish, in conjunction with the department of housing preservation and development and the New York city housing authority, a permanent housing resource clearinghouse to coordinate and track such permanent housing resources as may be approved as available to eligible homeless persons.

§21-306 Homeless services advisory board. There shall be an advisory board to advise the commissioner on the provision of transitional housing and services for eligible homeless persons. This advisory board shall consist of eleven members to be appointed for two-year terms as follows: five members appointed by the speaker of the council and six, including the chairperson of the advisory board, by the mayor. The members of the advisory board shall include one or more members who are or were, within the immediate past twenty-four months, homeless. The members of the advisory board shall serve without compensation.

§21-307. Interagency coordinating council. a. There shall be an interagency coordinating council established by the mayor which shall consist of representatives of

each city agency providing transitional housing or services to eligible homeless persons and other homeless individuals and families. Such interagency coordinating council shall include, but shall not be limited to, representatives of the human resources administration, the department of homeless services, the department of housing preservation and development, the department of employment and such other agencies as the mayor shall designate. The mayor shall designate a deputy mayor to serve as chairperson of the interagency coordinating council. The commissioner of the department of homeless services shall provide appropriate personnel to assist the interagency coordinating council in the performance of its functions.

b. The interagency coordinating council shall:

1. Not later than October 1, 1994 and each year thereafter, prepare, in consultation with the office of management and budget, an annual breakdown of each member agency's expenditures for housing and services to the homeless in the adopted budget;

2. review the organization and operations of member agencies with respect to contracted service providers to the homeless, including service delivery, management and evaluation of performance;

3. recommend means by which the duplication and fragmentation of the provision of housing for, and delivery of services to, the homeless may be reduced and the efficiency, effectiveness and economy of service delivery may be enhanced;

4. consider proposals for the improvement of transitional and permanent housing programs and service delivery to the homeless; and

5. recommend to the mayor and the city council joint agency projects or programs which could facilitate more efficient use of existing resources.

c. The interagency coordinating council shall meet at least quarterly and shall hold at least one public hearing annually, at which public testimony shall be taken.

§5. Section 21-121 of the administrative code of the city of New York, as amended by local law number 19 for the year 1988, is **RENUMBERED** as section 21-308 and is amended to read as follows:

§21-308 Five-year plan to relieve homelessness. 1. Not later than [six] nine months after the effective date of [this legislation] the local law that amended this section, the commissioner shall submit to the council a Five-Year Plan to Relieve Homelessness, including but not limited to the following:

a. Projected numbers of homeless individuals and families in each of the five years.

b. Projected expense and capital budgets for the department, including, but not limited to expenditures for homeless individual and homeless family programs, facilities and services for each of the five years.

c. Projected number of facilities to be constructed or rehabilitated to accommodate homeless individuals and families.

d. Projected number of permanent housing units to be constructed or rehabilitated to accommodate homeless individuals and families.

[e. The number of units in property acquired by in rem tax foreclosure that are to be constructed or rehabilitated to accommodate homeless individuals and families. The council accepts the current need to use a variety of types of structures to accommodate homeless families and individuals, but reaffirms its commitment to permanent housing for homeless individuals and families as soon as possible. The commissioners of the departments of social services and housing, preservation and development shall forward to the council their reasons and supporting data regarding the need to establish transitional

housing facilities for families in structures which do not comply with the standards for class A multiple dwellings and are not acquired by in rem tax foreclosure.

f. Projected total number of homeless families to be accommodated in welfare hotels in each of the five years.

g. Projected timetable for phasing out the use of welfare hotels for accommodating homeless families by January first, nineteen hundred ninety-three;]

2. a. *Beginning in 1994, [The] the Five-Year Plan shall be reviewed and updated by the commissioner each year, and the updated version thereof shall be submitted to the council not later than [January thirtieth] October first of each year.*

b. *Each such annual update of the Five-Year Plan shall also include, but not be limited to, the number of applicants for transitional housing, the number and types of transitional housing placements of eligible homeless persons that were made, the number and types of social services provided to applicants for transitional housing, the number and types of permanent housing placements of eligible homeless persons made by borough, and the locations of all transitional housing units used during the reporting period.*

3. a. *Not later than June 1, 1995, [The] the commissioner [of social services] shall eliminate for the purpose of providing transitional housing for homeless families with children the [department of social services'] department's use of [welfare hotels to house]:*

(i) *any privately owned hotel with a total of more than 100 units which is operated by the owner or another person for profit; and*

(ii) *any unit in a privately owned hotel with a total of 100 units or less which is operated by the owner or another person for profit in which a bathroom, a refrigerator, cooking facilities and an adequate sleeping area are not provided in each unit and where stable living accommodations, on-site social services, and accommodations which otherwise comply with federal, state and local laws are not provided to the homeless families [within five years of the enactment of this local law] with children housed in each such unit. For purposes of this subdivision, "on-site social services" shall mean, at a minimum: (A) services for information and referral to appropriate health care providers; (B) within two days of arrival, the family is offered a preliminary needs determination, including referrals for benefits or services which if immediately provided to the family would facilitate their return to permanent housing, and an evaluation of the educational and other needs of the family members; (C) the family is offered an assessment of its needs and an analysis of how these needs will be met through existing public assistance and care programs, including child welfare programs, and the steps to be taken to obtain the service needs of the family; (D) the family has access to its services plan and case files; (E) the family is offered assistance in preparing for permanent housing, which shall include, at a minimum, where necessary and appropriate: counseling services, assistance in obtaining permanent housing, assistance in securing supportive social and mental health services including but not limited to psychiatric, drug and alcohol services and assistance in securing employment assessment, job training and job placement services; and (F) the family is offered information about and referrals to: local community agencies and programs the services of which the family may reasonably require in order to facilitate their return to permanent housing and for which the family is eligible; recreational services; and child care services.*

b. *In eliminating the use of such hotel units pursuant to paragraph a of this subdivision, the commissioner shall comply with the following timetable: (i) eliminate*

on or before March 1, 1994 the use of not less than 150 of the units in use on June 8, 1993 for the purpose of providing transitional housing for homeless families with children which are not in compliance with all of the requirements set forth in paragraph a of this subdivision; (ii) eliminate on or before June 1, 1994 the use of an additional 140 such units; and (iii) eliminate on or before June 1, 1995 the use of all remaining units used for the purpose of providing transitional housing for homeless families with children which are not in compliance with all of the requirements set forth in paragraph a of this subdivision; provided that during the period from June 1, 1994 through June 1, 1995 the commissioner may continue to use only the following units to house homeless families with children: (A) units which comply with all the requirements set forth in paragraph a of this subdivision, or (B) units which comply with all of the requirements of paragraph a of this subdivision except the requirement set forth in subparagraph (ii) of such paragraph and the requirement of individualized cooking facilities set forth in subparagraph (ii) of such paragraph; and provided further that on and after June 1, 1994 the commissioner shall not house homeless families with children in units the use of which was eliminated in compliance with this paragraph.

c. After June 8, 1993, the commissioner shall not use any units in a privately owned hotel operated by the owner or another person for profit for the purpose of providing transitional housing for homeless families with children which (i) do not comply with all of the requirements set forth in paragraph a of this subdivision and (ii) were not in use for such purpose on such date. [This timetable may be amended, pursuant to the procedure set forth herein, if the actual total number of homeless families is greater than projections, or if the continued use of welfare hotels is necessary to meet legal mandates. If any such amendment is needed, the commissioner of social services shall, immediately after determining such need, submit a written statement to the council setting forth the reason for the proposed amendment. The council may within forty-five days after the first stated meeting of the council following the receipt of a copy of such amendment approve or disapprove such amendment by adoption of an appropriate resolution. Upon approval by the council, such amendment shall take effect immediately. If the council disapproves such amendment, the commissioner shall not be precluded from resubmitting to the council such proposed amendment or from submitting any other amendment. If the council does not approve or disapprove such amendment within such forty-five day period, such amendment shall take effect on the forty-sixth day after such first stated meeting.]

d. In the event that other housing is unavailable and referral to a unit in a privately owned hotel operated by the owner or another person for profit which does not comply with all of the requirements set forth in paragraph a of this subdivision is necessary to meet orders of the courts or federal, state or other legal mandates, nothing in this subdivision shall be construed to preclude the commissioner, or the commissioner of any successor agency, from using any such unit to provide transitional housing for homeless families with children as long as such unit does not pose a danger to health and safety and (i) an emergency such as a flood, earthquake or fire, or a medical emergency as certified by the commissioner of health, has rendered existing shelters or other facilities unsuitable for use to house homeless families with children or (ii) an unanticipated emergency occurs. Any use of a privately owned hotel operated by the owner or another person for profit under any one of such circumstances shall be limited to a period of no more than sixty consecutive days. No homeless families with children shall be housed

pursuant to this paragraph for a period of more than sixty days in a unit which does not comply with all the requirements set forth in paragraph a of this subdivision. In the event a referral is made to any hotel unit the use of which was to have been eliminated pursuant to this subdivision, the commissioner shall provide written notification of the referral to the speaker of the council within twenty-four hours of such referral and the reasons therefor, and shall, on a weekly basis during such time any such hotel unit is used for emergency housing, provide the speaker with a written census report indicating the number of homeless families with children housed pursuant to this paragraph. The commissioner shall provide timely written notice to affected families with children of the provisions of this paragraph. Notwithstanding any other provision of this subdivision, the commissioner, or the commissioner of any successor agency, shall be authorized to take such action as may be necessary to comply with court orders or federal or state law, rules, regulations or other federal or state mandates.

[4. As used in this section, the term "welfare hotel" shall mean a privately-owned hotel, operated by the owner or another person for profit which is used to provide transitional housing for homeless families.

5. Nothing in this section or in the five year plan submitted pursuant to this section shall be construed to preclude the commissioner of the department of social services or the commissioner of housing preservation and development from taking any action to provide shelter for the homeless that such commissioner determines to be necessary to meet legal mandates within the five year period between the effective date of this legislation and the date by which the use of welfare hotels to house homeless families by the department of social services shall be eliminated.]

§6. Section 21-122 of such code is **RENUMBERED** as section 21-309.

§7. Any agency or officer to whom are assigned by this local law any powers and duties shall have the power to continue any business, proceeding or other matter commenced by the agency or officer by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to the subject matter of such powers or duties and applicable to the agency or officer formerly exercising such powers and duties shall, so far as not inconsistent with the provisions of this local law, apply to the agency or officer to which such powers and duties are assigned by this local law. Any rule in force upon the effective date of this local law and promulgated by an agency or officer whose power to promulgate such rule is assigned by this local law to another agency or officer shall continue in force as the rule of the agency or officer to whom such power is assigned, unless and until such rule is superseded, amended, or repealed.

§8. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or any agency or officer, shall be affected or abated by the enactment of this local law or by anything therein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any agency or officer party thereto may by this local law be assigned or transferred to another agency or officer, but in that event the same may be prosecuted or defended by the head of the agency to which such functions, powers and duties have been assigned or transferred by this local law.

§9. Nothing contained in this local law shall affect or impair the rights or privileges of officers or employees of the city or of any agency existing at the time when this local law shall take effect, or any provision of law in force at the time when this local law

shall take effect and not inconsistent with the provisions of this local law, in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city generally or officers or employees of any agency.

§10. Officers and employees in the classified municipal services who are transferred to the department of homeless services pursuant to the enactment of this local law shall be transferred without examination and without affecting existing compensation or pension or retirement rights, or other privileges or obligations of such officers and employees.

§11. It is the intent of this local law to protect those rights enumerated in sections nine and ten as they apply to officers and employees in the classified municipal services of the human resources administration who are transferred to the department of homeless services during the initial staffing period. The city of New York and the certified employee organization designated by the board of certification pursuant to section 12-307(a)(3) of the administrative code of the city of New York to bargain on matters which must be uniform for employees of the human resources administration will enter into negotiations towards an agreement extending through a date five years following the enactment of this local law which will set forth such protections. Such negotiations will include but not be limited to the right to take civil service examinations and be appointed from eligible lists in either the human resources administration or the department of homeless services; the right to exercise contractual transfer procedures; the right in case of layoff from the department of homeless services to be returned to the human resources administration without loss in benefits; the right in case of the restructuring or abolition of the department of homeless services to be returned to the human resources administration without loss in benefits; the right that service in either the human resources administration or department of homeless services shall be deemed as service in the other agency; and such other protections deemed necessary by the parties.

§12. No existing right or remedy of any character shall be lost or impaired or affected by reason of the enactment of this local law. Any lease, license, permit or contract in force upon the effective date of this local law, and entered into or issued by an agency or officer whose power to enter into such type of lease, license, permit or contract is assigned by this local law to another agency or officer shall continue in force according to its terms and applicable law.

§13. All records, property and equipment whatsoever of any agency or part thereof, the powers and duties of which are assigned to any other agency by this local law, shall be transferred and delivered to the agency to which such powers and duties are so assigned.

§14. a. This local law shall take effect immediately, provided, however, that section 21-308 of the administrative code of the city of New York as renumbered and amended by section five of this local law shall take effect retroactive to June 8, 1993; and provided further that sections two, three, four, and six of this local law shall expire on July 1, 1995.

b. Notwithstanding any provision of this local law to the contrary, the commissioner of homeless services and the administrator of the human resources administration may enter into a memorandum of understanding providing that one or more of the powers and duties assigned by this local law to the commissioner of homeless services shall be exercised by the administrator of the human resources administration until a date not later than September 1, 1993.

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

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on June 13, 1993, and approved by the Mayor on June 30, 1993.

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 51 of 1993, Council Int. No. 682-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 13, 1993: 42 for, 9 against.

Was approved by the Mayor on June 30, 1993.

Was returned to the City Clerk on June 30, 1993.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel