

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1989**

No. 14

Introduced by Council Member Katzman (by the request of 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 renaming the department of ports, international trade and commerce as the department of ports and trade, and in relation to the jurisdiction of such department and the department of transportation, and to increasing penalties for violation of regulations of the department of ports and trade, and to repeal paragraphs seven and eight of subdivision c of section twenty-nine hundred three of the New York city charter, relating thereto.

Be it enacted by the Council as follows:

Section 1. The heading of subdivision c of section twenty-nine hundred three of the New York city charter, as relettered by vote of the electors of such city at a general election held on November eighth, nineteen hundred eighty-eight, is amended to read as follows:

c. Ferries and [general aviation] *related facilities.*

§2. Paragraphs seven and eight of such subdivision of such section of such charter are **REPEALED.**

§3. Paragraphs five and six of such subdivision of such section of such charter are amended to read as follows:

(5) issue permits for the control of television and photography activities within or upon ferries and related facilities; *and*

(6) construct, operate and maintain marinas and public boat launching ramps and related facilities of ferry property and collect fees for the use thereof; such fees to be deposited in a special fund for the continued maintenance, operation or reconstruction of public marine facilities[;].

§4. Paragraph one of subdivision d of such section of such charter, as relettered by vote of the electors of such city at a general election held on November eighth, nineteen hundred eighty-eight, is amended to read as follows:

(1) prepare or review plans and recommendations with respect to the nature, location, construction, operation and financing of roads, highways, bridges, tunnels, [aviation facilities,] subways or other facilities for mass transportation *other than aviation facilities* for use in whole or in part within the city whether or not the funds provided for such facilities are derived from the city treasury;

§5. The title of chapter twenty-nine of such charter is amended to read as follows:

DEPARTMENT OF PORTS [, INTERNATIONAL] *AND*
TRADE [AND COMMERCE]

§6. Section seven hundred one of such charter, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

§701. Department; commissioner; seal. There shall be a department of ports [, international] and trade [and commerce], the head of which shall be the commissioner of ports [, international] and trade [and commerce]. The commissioner may adopt a seal for the department and direct its use.

§7. Section seven hundred two of such charter, as added by local law number twenty-eight for the year nineteen hundred seventy-seven, is amended to read as follows:

§702. Deputies. The commissioner may appoint [two] *three deputy commissioners, one to be the first deputy commissioner.*

§8. The first unlettered paragraph of section seven hundred four of such charter, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

§704. Powers and duties of the commissioner. The commissioner shall have the power, and it shall be his *or her* duty, to promote and foster development of intrastate, interstate, and international commerce and trade in the city of New York and to exercise the functions, operations, powers and duties of the city relating to the development, construction, reconstruction, operation, maintenance, management, administration and regulation of public markets, wharf property, water front property and airports within the city of New York including, without limitation, the following:

§9. Subdivision k of such section of such charter, as amended by vote of the electors of such city at a general election held on November eighth, nineteen hundred eighty-eight, is amended to read as follows:

(k) to establish, amend and enforce all needful rules and regulations for the property, *and all airports, airplane landing sites, seaplane bases and heliports owned or possessed by the city and placed in his or her charge or over which he or she shall have power or regulation and to issue such orders as may be necessary for such enforcement.* The violation of or the failure to comply with any such order, rule or regulation shall be triable in criminal court and punishable, upon conviction, by not more than thirty days imprisonment or by a fine of not less than one hundred dollars nor more than five [hundred] *thousand* dollars, or both;

§10. Subdivisions (n), (o), and (p) of such section of such charter, as added by local law number five for the year nineteen hundred eighty-six, are relettered subdivisions (p), (q), and (r) respectively.

§11. Such section of such charter, as amended by local law number five for the year nineteen hundred eighty-six, is amended by adding two new subdivisions (n) and (o) to read as follows:

(n) *to have charge and control of the regulation for the health and safety of the general public of all airports, airplane landing sites, seaplane bases, heliports, marginal streets and parking facilities appurtenant thereto owned or possessed by the city;*

(o) *to have the exclusive power to regulate all privately owned airports, airplane landing sites, seaplane bases and heliports and the operation out of and into such bases as well as the control of ground effect craft and aircraft operations to or from other sites within the city not so designated as airports, heliports, airplane landing sites or seaplane bases;*

§12. Section 16-130 of chapter one of title sixteen of the administrative code of the city of New York, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

§16-130 Permits for operators of dumps. It shall be unlawful for any person or public agency to conduct, operate or use any pier or part thereof, or any piece or parcel of land or land under water within the city as a dump, or for the reception and disposition of waste materials for fill or final disposition, without having first obtained for each pier or part thereof, or for each piece or parcel of land or of land under water, a permit from the commissioner. The prior written approval of the commissioner of ports [,international] and trade [and commerce] shall be obtained as a condition precedent to the granting of any such permit.

§13. Section 20-573 of chapter three of title twenty of such code, as recodified by chapter nine hundred seven of the laws of nineteen hundred eighty-five, is amended to read as follows:

§20-573 **Adjustment of controversies.** The commissioner of ports and [terminals] *trade* may

adjust and settle any claims [in] *and* controversies in regard to rents and other matters which appertain to leases of market lands.

§14. Section 20-575 of chapter three of title twenty of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

§20-575 Waterfront property adjoining market lands; highways through or bounding market places. Nothing contained in this chapter shall interfere with the jurisdiction of the department of ports [,international] *and* trade [and commerce] over any waterfront property in and around any market lands, nor with the jurisdiction of the commissioner of transportation over market lands, insofar as it concerns his or her powers over highways.

§15. Section 22-101 of subchapter one of chapter one of title twenty-two of such code, as amended by local law number thirty-seven for the year nineteen hundred eighty-six, is amended to read as follows:

§22-101 **Definitions.** As used in this title, the following terms shall have the following meanings:

a. "Commissioner" shall mean the commissioner of the department of ports [,international] *and* trade [and commerce].

b. "Department" shall mean the department of ports [,international] *and* trade [and commerce].

§16. Subdivision a of section 22-103 of subchapter one of chapter one of title twenty-two of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

a. To the end that the city may make needful provisions for navigation, intercourse and commerce of the city and adequately to develop and secure the same there is hereby granted in fee to the city, in all the public streams, rivers, sounds, bays and waters of all descriptions at any and all places within the city or adjoining the limits of the city, all and singular the property, estate, right, title and interest of the people of the state of New York, in, to, of, and concerning such lands under water, as are embraced within the projected boundary lines of any street intersecting the shore line, and which street is in public use or which may be hereafter opened for public use extending from high-water mark out into such streams, rivers, sounds, bays and waters so far (and limits in existing grants to the contrary) as the city shall now or at any time hereafter in the opinion of the board of estimate or the commissioner of ports[,international] *and* trade [and commerce] require the same for ferries, public wharves, docks, piers, bulkheads, basins, slips or other public structures, adjuncts and facilities for navigation and commerce. This grant shall include the right to reclaim such lands from such waters, and also all riparian rights and all rents, issues and profit of the premises herein granted. The commissioner of the state department of general services, from time to time, shall convey or patent the lands therein granted to the city for such purposes as and whenever required by the commissioner of ports[, international] *and* trade [and commerce].

§17. Section 22-104 of subchapter one of chapter one of title twenty-two of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

§22-104 Lands under water not within the projected boundary lines of streets; patenting of.

a. Patents of land under water within the city shall be made only to the city or to the riparian proprietor. Where, pursuant to section seven hundred five of the charter or section 22-132 of this chapter, a plan or plans for the construction of docks between street intersections shall be projected, the commissioner of ports [,international] *and* trade [and commerce], with the approval of the board of estimate, may make application to the commissioner of the state department of general services for a grant of lands under water for that purpose. Such state commissioner thereupon shall give notice to the riparian proprietor before taking action in the matter and shall then make such grant to the city for the purposes specified in section 22-103 of this subchapter. Such grant, however, shall be subject to

all the rights of the riparian proprietor, and before the city shall construct such public wharves or other structures in front of the land of such riparian proprietor, the city shall make just compensation to such proprietor for the value of all the riparian rights.

b. Where application is made to the commissioner of the state department of general services by the riparian proprietor for a grant of soil or lands under water within the city, such state commissioner shall give notice thereof to the commissioner of ports [,international] *and* trade [and commerce] who shall examine into such application and certify to such state commissioner whether in his or her opinion the granting of the same will conflict with the rights of the city or be otherwise injurious to the public interests of the city. Such grant, if made, shall be confined to lands under water in front of such riparian proprietor and such state commissioner may insert such terms and conditions in the grant as are recommended by the commissioner of ports[, international] *and* trade [and commerce] and as will protect the public interests of the city in respect to navigation and commerce. The validity of any such grant or patent may be judicially determined in an action brought by and in the name of the city.

§18. Subdivision b of section 22-113 of subchapter one of chapter one of title twenty-two of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

b. Any master or other person, having charge of any vessel, canal boat, barge or lighter, who shall refuse or neglect to move the same when ordered to do so by the commissioner or other proper officer of the department, or who shall resist or forcibly oppose such commissioner or officer in the discharge of his or her duties, for every such offense, shall forfeit and pay the sum of fifty dollars, to be recovered with costs by and in the name of the department of ports [,international] *and* trade [and commerce].

§19. Subdivision a of section 22-130 of subchapter one of chapter one of title twenty-two of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

a. The commissioner may direct the use of the seal of the department. Such seal shall be a device of the arms of the city of New York surrounded by the words, "Department of Ports [,International] *and* Trade [and Commerce]. The City of New York," engraved upon a metal disk two and one-quarter inches in diameter, and the same may be renewed whenever necessary. An impression of such seal made directly on paper shall be as valid as if made on a wafer or on wax.

§20. Subdivision d of section 22-133 of subchapter two of chapter one of title twenty-two of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

d. Such parts of the lands acquired by the city under and pursuant to the provisions of this subchapter which in the judgment of the board of estimate are no longer required for the improvement of the water front facilities of the city or for any other public purpose, except the part of such lands so acquired as have been heretofore assigned by the board of estimate to the use of the department of ports [,international] *and* trade [and commerce], may be sold by the city in the manner prescribed by subdivision b of section three hundred eighty-four of the charter. The proceeds of such sale shall be paid into the real property fund.

§21. Subdivision b of section 24-123 of subchapter four of chapter one of title twenty-four of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

(b) Applications for permits, and operating certificates required by subdivision (b) of section 24-122 of this code, shall be filed at the department of buildings except that such applications shall be filed with the department of ports [,international] *and* trade [and commerce] with respect to buildings under the jurisdiction of such department.

§22. Subdivision a of section 26-243 of article eight of subchapter three of chapter one of title

twenty-six of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

a. Recovery of bodies from wrecked structures. Where any persons are known or believed to be buried under the ruins of any fallen structure or part thereof in the city, the superintendent shall cause an examination of the premises to be made for the recovery of the bodies of the killed and injured. Whenever, in making such examination, it shall be necessary to remove any debris from the premises, the commissioners of ports [,international] *and* trade [and commerce], parks, police and sanitation and the commissioner of transportation, respectively, when called upon by the superintendent, shall cooperate with the superintendent in carrying out the purposes of this article, and shall provide suitable and convenient places for the deposit of such debris.

§23. Section 27-216 of article twenty-two of subchapter one of chapter one of title twenty-seven of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

§27-216 Existing buildings. Upon application by the owner of an existing building, and subject to the provisions of section 27-111 of article three of this subchapter, the commissioner shall issue a certificate of occupancy for such building, provided that all the time of issuing such certificate, no notices of violation or other notices or orders affecting the building as they relate to the provisions of this code are pending before the department of buildings, and provided further that it is established to the satisfaction of the commissioner, after inspection and investigation, that the alleged use of the building has heretofore legally existed. The issuance of a certificate of occupancy for any existing building on waterfront property not used in conjunction with and in furtherance of waterfront commerce and/or navigation shall be conditioned upon compliance with the provisions of this code regulating means of egress, and upon the issuance of a certificate of completion by the commissioner of ports [, international] *and* trade [and commerce], and shall be limited to the uses and purposes certified to therein.

§24. Subdivisions f and g of section 27-317.2 of subchapter four of chapter one of title twenty-seven of such code, as amended by local law number thirty-three for the year nineteen hundred eighty-eight, are amended to read as follows:

(f) The building permit application filed with the department of buildings or the work permit application filed with the department of ports, [, international] *and* trade [and commerce] shall state that:

- (1) The premises is located within the special flood hazard area;
- (2) The cellar or basement is located below the level of the base flood elevation; and,
- (3) No portion of the cellar or basement may be used for living purposes.

(g) A deed restriction noting all of the above is to be recorded in the county clerk's office and the page and liber number indicated on either the building permit application and certificate of occupancy filed with and issued by the department of buildings, or the work permit application and the certificate of completion filed with and issued by the department of ports [,international] *and* trade [and commerce].

§25. Paragraph fourteen of subdivision b of section 27-4053 of subchapter eight of chapter four of title twenty-seven of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

14. Installation plans. Plans showing the entire installation shall be filed with the department of buildings or the department of ports [, international] *and* trade [and commerce]. All tanks, piping, dikes and tank foundations shall be constructed in accordance with plans that have been filed with and approved by the department having jurisdiction. It shall be unlawful to cover from sight any tank forming part of an underground storage system until inspected and approved by the department having jurisdiction for such installation.

§26. Subdivision a of section 27-4281 of subchapter twenty-nine of chapter four of title twenty-

seven of such code, as amended by local law number five for the year nineteen hundred eighty-six, is amended to read as follows:

a. It shall be unlawful to smoke, carry or possess a lighted cigar, cigarette, pipe, or match upon a bulkhead, farm, dock, drydock, shipyard, pier, wharf, warehouse or shed, or in and about any airport, its buildings and appurtenances thereto, or to smoke, carry, or possess a lighted cigar, cigarette, pipe, or match on board any ship, lighter, carfloat, scow, and all other similar floating craft or equipment whether such be berthed or moored at a dock, wharf, pier, or to a vessel made fast thereto or in a shipyard; provided that smoking may be permitted in such portions of any of the aforementioned structures or locations as may be designated by the commissioner of ports [international] *and* trade [and commerce], or by the fire commissioner.

§27. Any reference to the department of ports, international trade and commerce in law or contract shall be deemed to refer to the department of ports and trade.

§28. This local law shall take effect thirty days after its enactment into law.

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

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on February 28, 1989, and approved by the Mayor on March 14, 1989.

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 14 of 1989, Council Int. No. 1184) contains the correct text and:

Received the following vote at the meeting of the New York City Council on February 28, 1989;
34 for, 0 against

Was approved by the Mayor on March 14, 1989.

Was returned to the City Clerk on March 15, 1989.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel