

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1994**

No. 24

Introduced by Council Members Pinkett, Pagan, Eristoff, Fusco and Stabile (by the request of the Mayor); also Council Member O'Donovan. Passed under a Message of Necessity by the Mayor.

A LOCAL LAW

To amend the New York city charter, in relation to consolidating the department of telecommunication and energy and the computer and data communications services agency into a department of information technology and telecommunications, transferring certain powers and duties relating to telecommunications from the department of general services to the department of information technology and telecommunications and transferring certain powers and duties relating to energy from the department of business services, and to repeal chapter 3 of title 23 of the administrative code of the city of New York, relating to the computer and data communications services agency.

Be it enacted by the Council as follows:

Section 1. Subdivision d of section 362 of the New York city charter, as added by vote of the electors of such city at a general election held on November 7, 1989, is amended to read as follows:

d. "Revocable Consent" shall mean a grant by the city of a right, revocable at will, (1) to any person to construct and use for private use pipes, conduits and tunnels under, railroad tracks upon, and connecting bridges over inalienable property, (2) to an owner of real property or, with the consent of the owner, to a tenant of real property to use adjacent inalienable property for such purposes as may be permitted by rules of the department of transportation or the department of *information technology and telecommunications* or (3) to a public service corporation for facilities ancillary to, but not within, a franchise granted prior to the effective date of this section.

§2. Subdivision c of section 364 of the New York city charter, as added by vote of the electors of such city at a general election held on November 7, 1989, is amended to read as follows:

c. Revocable consents, other than for telecommunications purposes, may be granted by the department of transportation with respect to property under its jurisdiction or by such other agency as may be authorized by law to grant revocable consents. Revocable

consents for telecommunications purposes may be granted by the department of *information technology and telecommunications*. All revocable consents shall require the approval of the department of transportation.

§3. Subdivision a of section 1061 of the New York City Charter, as amended by local law number 68 for the year 1993, is amended to read as follows:

a. There shall be a commission on public information and communication which shall consist of the public advocate, as chair, the corporation counsel or the delegate of such officer, the director of operations or the delegate of such officer, the commissioner of the department of records and information services or the delegate of such officer, the commissioner of *information technology and telecommunications* or the delegate of such officer, the president of the WNYC communications group or the delegate of such officer, and one council member elected by the council, all of whom shall serve on the board without compensation. In addition, there shall be four other members, each appointed for a four-year term, who shall not hold or seek public or political party office or be public employees in any jurisdiction, except the representative of the community board as set forth herein, to be appointed as follows: two by the mayor, one of whom is or has been a representative of the news media and one of whom shall be a member of a community board; one by the public advocate; and one by the borough presidents acting as a group. Such members shall receive a per diem compensation for each calendar day they perform the work of the commission. No such members shall serve for more than two consecutive four-year terms. All initial appointments shall be made by the first day of March, nineteen hundred ninety.

§4. Chapter 48 of the New York city charter, as amended by local law number 71 for the year 1990, is amended to read as follows:

CHAPTER 48

DEPARTMENT OF *INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS* [AND ENERGY]

§1070. Department; commissioner [;powers. a]. There shall be a department of *information technology and telecommunications* [and energy,] the head of which shall be the commissioner of *information technology and telecommunications* [and energy] *and the chief information officer of the city*.

§1071. *Deputies*. The commissioner [or his or her designee shall serve as the director of the public utility service established by section 22-301 of the administrative code] *may appoint four deputies, one of whom may be designated the first deputy commissioner*.

[b.] §1072. *Powers and duties of the department*. Except as otherwise provided by law, the department shall have the following powers and duties:

[(1)] a. to plan, formulate, coordinate and advance *information technology and telecommunications* [and energy] policies for the city;

b. to develop, maintain and implement a long range telecommunications strategy;

[(2)] c. to administer all franchises and revocable consents relating to telecommunications pursuant to the provisions of chapter fourteen, including, without limitation, proposing authorizing resolutions for telecommunications franchises, developing and issuing requests for proposals or other solicitations of proposals for telecommunications franchises, selecting telecommunications franchisees, reviewing and approving petitions for revocable consents relating to telecommunications, negotiating

the terms of contracts or other agreements relating to telecommunications franchises and revocable consents, and enforcing the terms and conditions of such agreements;

[(3)] *d.* to develop municipal uses of cable television and coordinate interagency uses of cable television and other telecommunications;

[(4)] *e.* to ensure that priority is given on at least one municipal channel to the cable casting of the public proceedings of the council and its committees, the city planning commission and other state and city agencies;

[(5)] to analyze the energy and fuel needs of the city with respect to all kinds of energy, to prepare intermediate and long range plans, goals and programs designed to meet such needs, and to establish priorities among them;

(6) to develop, implement and manage energy-related programs for economic development and other purposes, including, without limitation, the administration of the public utility service established by section 22-301 of the administrative code, and to exercise all of the functions, powers and duties of such public utility service; and

[(7)] *f.* to provide to city agencies such land-based and wireless voice, data, video or other communications facilities, and technical assistance or other assistance with respect to such facilities, as they may require for the effective discharge of their responsibilities;

g. to participate in developing, maintaining and implementing a long-range computer systems and data communications strategy for the city of New York;

h. to assist in providing interagency coordination on matters related to data communications activities and interfacing of computers;

i. to provide appropriate, reliable, cost-effective and responsive computer and data communications services to agencies that require such services by purchasing and maintaining hardware, software and such other goods and services as may be necessary to effectively discharge the powers and duties of the department;

j. to provide assistance to agencies in meeting their data processing and data communications objectives;

k. to provide agencies using or proposing to use the services of this department with technical assistance in determining feasibility and resource requirements;

l. to simplify access to shared information, reduce communication costs and provide access to multiple computer systems by connecting computers and terminals of various city agencies, and of other public entities requesting such connection where such provision to such other entities would in the judgment of the commissioner be in the city's interests;

m. to plan and provide telecommunications coordination in support of disaster recovery;

n. to ensure security for data and other information handled by this department;

o. to institute procedures to assure restrictions of access to information to the appropriate individuals, where such restrictions is required by law; and

p. to perform such other responsibilities with respect to information technology and telecommunications [and energy] matters, including responsibilities delegated elsewhere by the charter, as the mayor shall direct.

[c. The] 1073. With respect to emergency communications systems and emergency communications facilities administered by another agency, the department shall exercise its powers and duties [in a manner consistent with applicable federal and state law] only as the mayor shall direct pursuant to subdivision p of section 1072 of this chapter, or at the request of such agency.

§[1071] 1074. Telecommunications [and Energy. a]. "Telecommunications" shall mean the transmission of writings, signals, pictures, numbers and sounds or intelligence of all kinds by aid of wire, cable, optical fiber, radio, satellite, electromagnetic wave, microwave or other like connection between points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus and services incidental to such transmission [, but shall not include emergency communications].

[b. "Energy" shall include work or heat that is, or may be, produced from any fuel or source, including but not limited to electrical, fossil, geothermal, wind, hydro, solid waste, tidal, solar and nuclear.]

§5. Section 1301 of the New York city charter is amended by adding two new subdivisions, 3 and 4, to read as follows:

3. *With respect to energy matters, the commissioner shall have the power and duty;*
- a. to plan, formulate, coordinate and advance energy policy for the city;*
 - b. to analyze the energy and fuel needs of the city with respect to all kinds of energy, to prepare intermediate and long-range plans, goals and programs designed to meet such needs, and to establish priorities among them;*
 - c. to develop, implement and manage energy-related programs for economic development and other purposes, including, without limitation, the administration of the public utility service established by section 22-301 of the administrative code, and to exercise all of the functions, powers and duties of such public utility service; and*
 - d. to perform such other responsibilities with respect to energy matters, including responsibilities delegated elsewhere by the charter, as the mayor shall direct.*

4. *For purposes of subdivision three of this section, "energy" shall include work or heat that is, or may be, produced from any fuel or source, including but not limited to electrical, fossil, geothermal, wind, hydro, solid waste, tidal, solar and nuclear.*

§6. Chapter 56 of the New York city charter is amended by adding a new section 1306 to read as follows:

§1306. The New York city public utility service. The commissioner or his or her designee shall serve as the director of the public utility service established by section 22-301 of the administrative code.

§7. Paragraphs (b) and (c) of subdivision 4 of section 1602 of the New York city charter, paragraph (b) as added by local law number 26 for the year 1977 and paragraph (c) as amended by vote of the electors of such city at a general election held on November 7, 1989, are amended to read as follows:

(b) [Communication facilities: except for emergency or other special communication facilities, to provide to city agencies such telephone, radio, television or other communications facilities as they may require for the effective discharge of their responsibilities;

(c)] Gas and electricity: to have charge and control of furnishing the city or any part thereof, by contract or otherwise, with gas, electricity, steam, hot water or other energy source, except such functions as are exercised by the public utility service of the city.

§8. Chapter 3 of title 23 of the administrative code of the city of New York is **REPEALED**.

§9. Any agency or officer to whom are assigned by this local law any powers and duties shall exercise such powers and duties in continuation of their exercise by the agency or officer by whom the same were heretofore exercised and shall have the power to continue any business, proceeding or other matter commenced by the agency or officer by

whom 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 whom such powers and duties are assigned by this local law. Any rule in force on 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.

§10. 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 adoption of this local law or by anything herein contained; but all such actions or proceedings may be continued notwithstanding that powers and duties of any agency or officer party thereto may by this local law be assigned 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 powers and duties have been assigned by this local law.

§11. 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.

§12. Officers and employees in the classified municipal civil service who are transferred to the department of information technology and telecommunications or the department of business services pursuant to the adoption 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.

§13. No existing right or remedy of any character shall be lost or impaired or affected by reason of the adoption of this local law. Any lease, license, permit or contract in force on 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.

§14. If any of the powers and duties of any agency or part thereof are by this local law assigned to another agency, all records, property and equipment relating to such assigned powers and duties shall be transferred and delivered to the agency to which such powers and duties are so assigned.

§15. This local law shall take effect immediately.

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 22, 1994, and approved by the Mayor on July 5, 1994.

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 24 of 1994, Council Int. No. 368-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 22, 1994: 51 for, 0 against.

Was approved by the Mayor on July 5, 1994.

Was returned to the City Clerk on July 6, 1994.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel