

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1991**

No. 61

Introduced by Council Member O'Donovan (by the request of the Mayor); also Council Members Dear and Williams. Passed under a Message of Necessity from the Mayor.

A LOCAL LAW

To amend the charter of the city of New York, in relation to the consolidation of the office of economic development, the department of ports and trade, the office of labor services and the office of economic and financial opportunity within a department of business services; and to repeal chapters 13-A, 13-B, 29, and 56 of such charter.

Be it enacted by the Council as follows:

Section 1. Subdivision 6 of section 311 of the charter of the city of New York, as added by vote of the electors at the general election held on November 7, 1989, is amended to read as follows:

6. The time schedules within which city officials shall be required to take the actions required by this chapter, [chapter thirteen-A and chapter thirteen-B] *sections thirteen hundred five and thirteen hundred six*, or by any rule issued pursuant thereto, in order for contracts to be entered into, registered or otherwise approved, and recommended time schedules within which city officials should take action pursuant to any other provision of law or rule regarding individual contracts. The promulgation of rules defining time schedules for actions by the [director of the office] *division* of economic and financial opportunity *of the department of business services* and the [director of the office] *division* of labor services *of such department* shall require the approval of each [director] *division*, as such rules pertain to actions required of [their offices] *such divisions*, prior to the adoption of such rules by the procurement policy board;

§ 2. Subparagraph e of paragraph 3 of subdivision b of section 335 of such charter, as added by vote of the electors at such general election, is amended to read as follows:

e. Violation of the provisions of [chapter thirteen-a] *sections thirteen hundred four or [thirteen-b] thirteen hundred five* of this charter, or any rule or standard promulgated pursuant thereto.

§ 3. Chapters 13-A and 13-B of such charter are REPEALED.

§ 4. Such charter is amended to add a new chapter 21-A to read as follows:

CHAPTER 21-A

NEW YORK CITY SPORTS COMMISSION

Sec. 541. New York city sports commission. a. There shall be established a New York city sports commission consisting of five members who shall serve without compensation, each for a term of three years. Two members of the commission shall be appointed by the

mayor, and two members shall be appointed by the speaker of the council, and one member shall be designated as chairperson by the mayor after consultation with the speaker.

The commission may appoint an executive director to serve at its pleasure and may employ or retain other employees and consultants within appropriations for such purpose.

b. Each member may designate a representative who may vote on behalf of such member and who shall be counted as a member for the purpose of determining the existence of a quorum. The designation of a representative shall be made in prior written notice served upon the chairperson of the commission.

c. The commission shall:

(1) make recommendations to insure the continuation and growth of a healthy environment for professional, amateur and scholastic sports activities in the city;

(2) hold at least one meeting per month;

(3) issue a quarterly report to the mayor and the council detailing the commission's activities during the previous three month period;

(4) issue an annual report to the mayor and the council at the start of each fiscal year detailing the commission's goals for the upcoming year;

(5) submit a proposed annual budget to the council no later than March thirty-first of each year;

(6) seek to promote the city as a positive and profitable base for professional sports teams wishing to relocate their organizations; and

(7) perform such other duties as may be necessary as determined by the commission.

§ 5. Chapter 29 of such charter is REPEALED.

§ 6. Chapter 56 of such charter is REPEALED and a new chapter 56 is added to read as follows:

CHAPTER 56

DEPARTMENT OF BUSINESS SERVICES

Sec. 1300. Department; commissioner. There shall be a department of business services, the head of which shall be the commissioner of business services. The commissioner may appoint deputies within available appropriations.

Sec. 1301. Powers and duties of the commissioner. Except as otherwise provided by law, the commissioner shall have charge and control of and be responsible for all functions and operations of the city relating to business and economic development, the enhancement of economic development and financial opportunity for minority and women owned business enterprises, and ensuring equal employment opportunity by city contractors. Such powers and functions shall include, without limitation, the following:

1. *With respect to business and economic development generally the commissioner shall have the power and duty:*

a. *to establish business, industrial and commercial policies, programs and projects which affect the business, industrial, commercial or economic well-being, development, growth and expansion of the economic life of the city;*

b. *to serve as liaison for the city with local development corporations, other not-for-profit corporations and all other entities involved in economic development within the city;*

c. *to study, organize, promote, coordinate and carry out within or without the city, activities, projects and programs designed to encourage, stimulate and foster the well-being, development, growth and expansion of business, industry and commerce in the city, and the enhancement and protection of the economic life of the city;*

d. to assist, encourage and promote broadened employee ownership, particularly through the use of employee stock ownership plans and producer cooperatives, by conducting research, outreach and public informational programs pertaining to employee ownership and employee stock ownership plans; by providing technical assistance to employee groups exploring an employee buyout, where such an action might be instrumental in retaining a business within the city of New York; and by ensuring that firms applying for financial assistance from any entity involved with economic development in the city of New York shall be correctly advised as to the potential advantages of forming an employee stock ownership plan;

e. to serve as a clearinghouse in connection with efforts to devise solutions for problems affecting business, industry and commerce in the city;

f. to promote and encourage the expansion and development of markets for city products;

g. to promote and encourage the location and development of new business and industry in the city, as well as the maintenance and expansion of existing business and industry, and for this purpose to cooperate with public and private agencies, organizations and individuals;

h. to promote, coordinate and implement activities, projects and programs designed to attract foreign direct investment and promote overseas sales by firms in the city and to otherwise encourage, stimulate and foster the well-being, development, growth, and expansion of international business, commerce, and trade in the city;

i. to administer and promote the development of foreign trade zones within the city;

j. to study conditions affecting business, industry and commerce in the city, and to collect and disseminate such information, make such studies and carry on such educational activities as may be necessary or useful in relation to the promotion and development of business, industry and commerce in the city;

k. to maintain a business information service in order to assist business and industry in the city, and to encourage business and industry outside of the city to patronize the business and industrial establishments of the city;

l. to make, from time to time, recommendations to the mayor concerning steps deemed advisable for the promotion and advancement of business and industrial prosperity in the city and the elimination of restrictions, burdens and handicapping factors having an adverse effect on business, industry and commerce in the city;

m. to publicize the economic advantages and other factors which make the city a desirable location for business and industry;

n. to collect information and compile and distribute literature and publicity material dealing with the facilities, advantages and attractions of the city and the historic and scenic points and places of interest therein;

o. to plan and conduct publicity and information programs designed to attract tourists, vacationers, visitors and other interested persons to the city, and to encourage, coordinate and cooperate with the efforts of public and private agencies, organizations and groups to publicize the advantages and attractions of the city for such purposes;

p. To encourage and cooperate with the efforts of public and private agencies, organizations and groups in publicizing the business, industrial and commercial advantages of the city;

q. to cooperate with and assist any corporation, organization, agency or instrumentality, whether public or private, the objects of which include, or which is authorized to act for, the advancement of the business and industrial prosperity and economic welfare of the city, or the furnishing of assistance in the location of new business and industry therein, or the rehabilitation or expansion of existing business and industry therein, or the creation of job oppor-

tunities or additional employment therein, so as to provide support for any action, efforts or activities for the accomplishment of any such purposes in the city on the part of any such corporation, organization, agency or instrumentality; and

r. to issue permits for the taking of motion pictures, and for the taking of photographs and for the use or operation of television cameras and/or any other transmitting television equipment in or about city property, or in or about any street, park, marginal street, pier, wharf, dock, bridge or tunnel within the jurisdiction of any city department or agency or involving the use of any city owned or maintained facilities or equipment.

2. The commissioner shall have the power and duty to exercise the functions of the city relating to the development, redevelopment, 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:

a. to have exclusive charge and control of the public markets of the city, to fix fees for services, licenses and privileges in connection therewith, to rent space therein and to enter into leases therefor, and to regulate all facilities in use as public markets for the public health, safety and welfare;

b. to have exclusive charge and control of the wharf property and water front owned by the city and of the building, rebuilding, repairing, altering, maintaining, strengthening, protecting, cleaning, dredging, and deepening of such wharf property and water front property; provided, that the commissioner may, subject to the approval of the mayor, designate parcels of wharf property and water front property to be managed pursuant to this paragraph and leased or permitted pursuant to paragraphs g and h of this subdivision by the commissioner of general services. Any such designation shall be made in writing and may be withdrawn by the commissioner subject to the approval of the mayor;

c. to have the exclusive power to enforce with respect to public markets, water front property and any structures on water front property under its jurisdiction, the labor law and such other laws, rules and regulations as may govern the dredging, filling, removal, construction, alteration, maintenance, use, occupancy, safety, sanitary conditions, mechanical equipment and inspection of structures in the city, and the issuance of permits and certificates of completion in reference thereto, and to establish and amend fees to be charged for the issuance of such permits or certificates of completion, which fees shall be established by the rules of the commissioner;

d. to have exclusive power to regulate water front property and the following structures on any water front property: wharves, piers, docks, bulkheads, structures wholly or partly therein, and such other structures used in conjunction with and in furtherance of water front commerce and/or navigation;

e. to have exclusive power to regulate the use of marginal streets so that they may be used to the best advantage in connection with wharf property and to regulate by license or otherwise the transfer of goods and merchandise upon, over or under all such marginal streets;

f. to lease, subject to the approval of the council, any wharf property belonging to the city primarily for purposes of water front commerce or in furtherance of navigation. Such leases may be sold at public auction duly advertised in the City Record for at least ten days prior thereto, and if not so sold the terms of any lease must be approved by the council by a three-fourths vote after a public hearing, notice of which shall be published in the City Record for the six days of publication of the City Record immediately prior thereto. All such leases shall be for such terms and shall contain such conditions as may be provided by law.

The council shall act within forty-five days of the filing of the proposed terms and conditions of any such lease with the council. Failure of the council to act on a lease within such forty-five day period shall be deemed an approval of such lease. All votes of the council pursuant to this subdivision shall be filed by the council with the mayor and shall be final unless disapproved by the mayor within five days of such filing except that there shall be no right of mayoral disapproval if a three-fourths vote of the council is required pursuant to this subdivision. Any such mayoral disapproval shall be filed by the mayor with the council and shall be subject to override by a two-thirds vote of the council within ten days of such filing;

g. to lease, pursuant to review and approval pursuant to sections one hundred ninety-seven-c and one hundred ninety-seven-d, any wharf property belonging to the city for purposes other than water front commerce or in furtherance of navigation, including, without limitation, commercial, industrial, residential or recreational purposes. All such leases shall be for such terms and shall contain such conditions as may be provided by law. No such lease may be authorized by the commissioner until a public hearing has been held with respect thereto after the publication of notice in the City Record at least thirty days in advance of such hearing;

h. to grant temporary permits terminable at will for a period not exceeding three years for the purposes of water front commerce or in furtherance of navigation and not exceeding one year for other purposes to use and occupy any wharf property belonging to the city;

i. to set aside by order any wharf property belonging to the city, which has not been leased, for general wharfage purposes or for the use of any special kind of commerce, or of any class of vessel, or of any agency, and to revoke or modify such order as to any such wharf property at any time;

j. to regulate the charges for wharfage, crannage and dockage of all vessels or floating structures using any wharf property set aside under paragraph i of this subdivision, provided that the rates which it shall be lawful to charge for wharfage, crannage and dockage from any vessel or floating structure which makes use of any other wharf property within the port of New York shall be fixed by rules of the commissioner;

k. to sell buildings, structures and other improvements on market property and wharf property to a person leasing such property pursuant to paragraphs a, f and g of this subdivision; provided, however, that any such sale of improvements shall be subject to the procedure for review and approval applicable to the lease related to the improvements;

l. to manage and promote the economic development of all airports, airplane landing sites, seaplane bases and heliports owned by the city, and to lease such property, subject to review and approval pursuant to sections one hundred ninety-seven-c and one hundred ninety-seven-d. No such lease may be authorized by the commissioner until a public hearing has been held with respect thereto after the publication of notice in the City Record at least thirty days in advance of such hearing;

m. 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 by the city;

n. to establish, amend and enforce rules for the proper care and use of all public markets, wharf property, water front property and all airports, airplane landing sites, seaplane bases and heliports owned by the city and placed in his or her charge or over which he or she shall have power of 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 or rule 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 thousand dollars, or both;

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;

p. to promote and encourage the expansion and development of the city as a center for intrastate, interstate and international overland freight transportation; and

q. to administer and enforce the provisions of the zoning resolution of the city of New York in respect to the following structures on any water front property: wharves, piers, docks, bulkheads, structures wholly or partly thereon, and such other structures used in conjunction with and in furtherance of water front commerce and/or navigation in the same manner and in accordance with the same procedure as is prescribed therein.

Sec. 1302. Water front plans.

a. No marginal street, bulkhead line, pierhead line or other similar line demarcating the extent of waterfront development may be delineated, established or changed by the commissioner except in accordance with sections one hundred ninety-eight and one hundred ninety-nine of this charter. Any existing waterfront plan containing such lines shall be continued in effect and may similarly be changed only in accordance with sections one hundred ninety-eight and one hundred ninety-nine. The commissioner may apply to the city planning commission to incorporate such existing plans for the water front or any portion thereof into the city map pursuant to the procedure for review and approval of a change to the city map. Any plans for the water front or portions thereof so incorporated shall thereafter be discontinued as separate plans.

b. No wharf, pier, bulkhead, basin, dock, slip, marginal street or other structure shall be laid out, built, or rebuilt in the port of New York in the area subject to the jurisdiction of the commissioner except in accordance with such plans as changed from time to time, provided, that the commissioner, with the approval of the council, may from time to time change the width or location of any of the piers laid down on such plans and build or rebuild temporary wharf structures or license or permit the building or rebuilding thereof as may be provided by law.

c. The commissioner may widen, open, construct, abandon or close any marginal street or avenue included in such plans and shall maintain the widened portion of such street or avenue, or the new street or avenue as a marginal street, and such new street, or such a widened street to the extent of the portion so widened, shall not be a public street. Before acting under this subdivision, the commissioner shall make a report to the city planning commission including a map showing any proposed change and such other information as the chair of the city planning commission shall require. If the city planning commission makes a finding that the proposed change is in accordance with the water front plan or approves the change, the commissioner may proceed with it, but if the city planning commission makes a finding that it is not in accordance with such plan and disapproves the change, then the commissioner shall not proceed unless the council by a two-thirds vote authorizes the commissioner to proceed. The city planning commission shall act on such change within six weeks from the time when it is filed in the office of the commission and if it does not act within such six weeks period the commissioner may proceed with the change.

Sec. 1303. Waterfront management advisory board. *There shall be a waterfront management advisory board which shall consist of twenty-one members and which shall consult with the deputy mayor for finance and economic development and the commissioner to advise them on matters relating to the industrial, commercial, residential, recreational and any other development of the city's wharves and water front property and on other matters at their*

request and to render annually to the mayor, the borough presidents, the city council and people of the city a report regarding the development of wharves and water front property in the city.

The board shall include the deputy mayor for finance and economic development or the delegate of such officer, as chair; a person to be designated by the deputy mayor for finance and economic development or the delegate of such person, as vice chair; the director of the office of management and budget or the delegate of such officer; the chairperson of the city planning commission or the delegate of such officer; the commissioner of parks and recreation or the delegate of such officer; the commissioner of housing preservation and development or the delegate of such officer; the commissioner of environmental protection or the delegate of such officer; and two city council members to be designated by the city council; in addition, there shall be two labor representatives, two industry representatives, and eight representatives of community interests, one from each borough and three at large, to be selected by the mayor with the advice and consent of the city council. The labor, industry and community representatives shall each serve for a three-year term without compensation.

Sec. 1304. Division of Economic and Financial Opportunity. There shall be a division of economic and financial opportunity within the department.

a. The purpose of the division shall be to enhance the ability of minority and women owned business enterprises to compete for city contracts, to enhance city agencies' awareness of such business enterprises, and to ensure their meaningful participation in the city procurement process.

b. The commissioner shall establish, administer, coordinate, and enforce a citywide program for the identification, recruitment, certification and participation of minority and women owned business enterprises in the city procurement process.

c. The commissioner shall be authorized to promulgate rules necessary to implement the purposes of this section. The commissioner shall consult with the procurement policy board in drafting and adopting such rules. Such rules shall define sanctions which are appropriate to remedy violations or penalize contractors for failure to comply with the provisions of this section or with any program or rule established pursuant to this section. The time schedules for actions required to be taken pursuant to this section shall be defined by rule of the procurement policy board in accordance with the provisions of section three hundred eleven.

d. The commissioner shall monitor the implementation of all financial, technical, managerial, and bonding assistance programs operated by city agencies to enhance participation by minority and women owned business enterprises in the city procurement process.

e. The commissioner shall have the following powers and duties to implement the purposes of this section:

1. to direct and assist agencies in their efforts to increase participation by minority and women owned business enterprises as contractors and subcontractors in the city procurement process;
2. to develop standardized forms and reporting documents;
3. to conduct, coordinate and facilitate technical assistance and educational programs;
4. to periodically review the compliance of city agencies with the provisions of this section;
5. to annually report to the mayor and the council on the activities of the division and efforts by agencies to comply with the provisions of this section. Such report shall recommend such activities and programs as the commissioner deems necessary to effectuate the purposes of this section;

6. to establish and operate, on behalf of the city, a centralized program for the certification of minority owned business enterprises and women owned business enterprises, for the purposes of establishing the eligibility of such businesses for participation in the programs and processes designed to ensure the meaningful participation by such businesses in the procurement activities of all city agencies. For the purposes of such certification, "minority owned business enterprise" and "women owned business enterprise" shall mean business enterprises authorized to do business in this state, including sole proprietorships, partnerships and corporations, in which (i) at least fifty-one percent of the ownership interest is held by United States citizens or permanent resident aliens who are either, (a) minority group members, or (b) women, (ii) the ownership interest of such persons is real, substantial and continuing, and (iii) such persons have and exercise the authority to control independently the day to day business decisions of the enterprise. "Minority group member" shall mean a United States citizen or permanent resident alien who is a member of a racial or language minority group in New York city pursuant to the voting rights act of 1965, as amended;

7. to audit such business enterprises and periodically review and in appropriate cases recertify their eligibility for participation in programs established pursuant to this section;

8. to direct and assist city agencies in their efforts to increase participation by minority and women owned business enterprises in any city-operated financial, technical, and management assistance program;

9. to assist all business enterprises certified pursuant to this section in becoming prequalified for all categories of procurement for which they may be eligible and for which contracting agencies utilize prequalification in the procurement process;

10. to prepare and periodically update a directory of such city certified business enterprises for use by city agencies and contractors and develop a clearinghouse of information on programs and services available to such business enterprises; and

11. to provide such assistance to certified business enterprises interested in being certified as is needed to ensure that such businesses benefit from city technical, managerial, and financial assistance, and other business development programs.

f. Responsibilities of the city agencies. The head of each city, county, borough or other office, position, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government, where the majority of board members are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury, and including but not limited to the board of education, school boards, city and community colleges, the financial services corporation, the city housing authority, the public development corporation, and the health and hospitals corporation, shall:

1. establish and implement reasonable measures and procedures to secure the meaningful participation of city certified business enterprises in the agency's (1) procurement of goods, services and construction and (2) financial, technical and managerial assistance programs for such business enterprises;

2. monitor all city contracts under the agency's jurisdiction for compliance with programs and policies established pursuant to this section, and refer and recommend appropriate matters to the division of economic and financial opportunity and the law department;

3. designate a deputy commissioner or other executive officer to advise the commissioner concerning the activities of the agency in carrying out its responsibilities pursuant to this section;

4. cooperate with and furnish to the division such information and assistance as may be required in the performance of the division's functions under this section and the rules promulgated hereunder;

5. make available to prospective bidders a current copy of the directory of city certified businesses; and

6. periodically report to the division on activities undertaken to promote and increase participation by city-certified businesses in its procurement and any financial, technical, or management assistance program which it administers.

g. Enforcement, sanctions and remedies. Upon receiving a complaint or at its own instance, a contracting agency may conduct such investigation as is necessary to determine whether a contractor is in compliance with the requirements of this section or any rule or program adopted pursuant to this section. The contracting agency shall, upon a determination of noncompliance, assess appropriate sanctions to be imposed on the contractor, in accordance with rules of the division promulgated for this purpose. A copy of such determination shall be submitted to the commissioner, who shall respond to the agency prior to the imposition of sanctions with such modifications of the agency's determination of sanctions as are necessary to ensure compliance with the division's rules for sanctions.

h. Small and locally-based business enterprises. In addition to the purposes provided in this section, the division of economic and financial opportunity, or such other bureau or division of the department as the commissioner may designate, shall administer any programs for small or locally-based business enterprise programs as may be established by law. The division of economic and financial opportunity or such other bureau or division shall, pursuant to applicable local laws, certify such enterprises as are eligible to participate in such programs, periodically review and recertify their eligibility, audit business enterprises that participate in such programs, and publish a directory of participating enterprises.

Sec. 1305. Division of Labor Services. There shall be a division of labor services within the department.

a. The commissioner shall administer the provisions of this section and enforce a city-wide program to ensure that city contractors and subcontractors take appropriate action to ensure that women and minority group members are afforded equal employment opportunity, and that all persons are protected from discrimination prohibited under the provisions of federal, state and local laws and executive orders with regard to recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay and other forms of compensation. The commissioner may request and shall receive from any contracting agency of the city such assistance as may be necessary to carry out the provisions of this section. "Minority group member" shall mean a United States citizen or permanent resident alien who is a member of a racial or language minority group in New York city protected by the voting rights act of 1965, as amended, or such other groups as may be covered by rule of the agency.

b. The commissioner shall promulgate such rules as are necessary to implement the purposes of this section. The commissioner shall consult with the procurement policy board in drafting and adopting such rules.

c. The commissioner shall have the following powers and duties:

1. to implement, monitor compliance with, and enforce this section and programs established pursuant to local, state and federal law and executive order requiring contractors to provide equal employment opportunity;

2. to implement, monitor compliance with, and enforce on-the-job training requirements on construction projects;

3. to monitor compliance by contractors with state and federal prevailing wage requirements;

4. to advise and assist contractors, subcontractors and labor unions with respect to their obligations to provide equal employment opportunity;

5. to establish appropriate advisory committees;

6. to serve as a city liaison to federal, state and local agencies responsible for contractors' and subcontractors' compliance with equal employment opportunity; and

7. such other powers and duties as may be conferred on the division by law or executive order for the purpose of ensuring that persons or businesses which benefit from doing business with the city provide equal employment opportunity.

d. The commissioner shall develop appropriate language for inclusion in city contracts regarding the subject matter of this section. Such contract language shall be reviewed by the corporation counsel. Such contract language shall require that a contractor:

1. shall not discriminate against any individual in violation of any federal, state or local law;

2. shall inform any employee representatives authorized to bargain collectively for its employees of the contractor's obligations pursuant to this section, and negotiate with such representatives to obtain their cooperation in the implementation of such obligations;

3. shall require that any subcontractor it employs in the performance of the contract comply with the requirements of this section.

e. 1. The commissioner shall require employment reports to be submitted in such form and containing such information as the commissioner may prescribe, by contractors to whom agencies propose to award city contracts and their proposed subcontractors, when such contracts or subcontracts have a value above a monetary threshold that the commissioner shall by rule establish. The commissioner may by rule provide for appropriate exemptions from such requirements.

2. An employment report shall include, but not be limited to, employment practices, policies, procedures, statistics and collective bargaining agreements. The contracting agency shall transmit the employment report to the commissioner after the selection of a proposed contractor or subcontractor. The commissioner shall review all employment reports to determine whether such contractors and subcontractors are in compliance with the equal employment opportunity requirement of local, state and federal law and executive orders.

3. Except as provided in paragraphs 4, 5 and 6 of this subdivision, a contracting agency may award the contract or approve a subcontractor upon receiving the approval of the division, or after a number of days to be specified by rule have passed since it submitted the employment report of the proposed contractor to the division, whichever is sooner.

4. If the commissioner notifies the contracting agency that a proposed contractor or subcontractor has failed to submit a complete employment report, the commissioner shall require the contracting agency not to award the contract or approve the subcontractor until after a complete employment report has been submitted to the division for its review.

5. If the commissioner notifies the contracting agency that the division has reason to believe that the contractor or subcontractor is not in substantial compliance with the requirements of this section, the commissioner may require the contracting agency not to award the contract or approve the subcontractor until the contractor has agreed to take appropriate action to come into compliance with such requirements.

6. The commissioner may by rule provide for circumstances when a contract or subcontract may be awarded without the prior approval of the division, which shall include but not be limited to requirements contracts which may be awarded prior to the approval of an

employment report, subject to the condition that a purchase shall not be made under the contract until the division has approved the employment report, emergency contracts, and contracts with contractors or subcontractors for which the division has previously approved an employment report.

7. The time schedules for actions required to be taken pursuant to this section shall be defined by rule of the procurement policy board in accordance with the provisions of section three hundred eleven.

f. *Periodic review.* The commissioner may require contractors or subcontractors to file periodic employment reports after the award of a contract in such form and with such frequency as the commissioner may direct by rule to determine whether such contractors or subcontractors are in compliance with applicable legal requirements and the provisions of this section.

g. *Responsibilities of city agencies.* The head of each city, county, borough or other office, position, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government, where the majority of board members are appointed directly or indirectly by the mayor or serve by virtue of being city officers, or the expenses of which are paid in whole or in part from the city treasury, including the board of education, city and community colleges, the financial services corporation, the health and hospitals corporation, the public development corporation, school boards, and the city housing authority, shall:

1. assist the division in monitoring compliance with the equal employment opportunity requirements of contracts under its jurisdiction and refer and recommend matters to the division with respect to non-compliance with the provisions of this section;

2. designate a deputy commissioner or other executive officer to advise the commissioner concerning the activities and progress of the agency in carrying out its responsibilities pursuant to this section; and

3. in accordance with the provisions of section three hundred thirty-five, impose remedies and sanctions for failure to comply with the requirements included in city contracts pursuant to this section.

h. *Enforcement, remedies and sanctions.* Upon receiving a complaint or at its own instance, the commissioner may conduct such investigation as may be necessary to determine whether contractors and subcontractors are in compliance with the equal employment opportunity requirements of federal, state and local laws and executive orders. If the commissioner has reason to believe that a contractor or subcontractor is not in compliance with the provisions of this section, the commissioner shall seek the contractor's or subcontractor's agreement to adopt and adhere to an employment program designed to ensure equal employment opportunity, including but not limited to measures designed to remedy underutilization of minorities and women in the contractor's or subcontractor's workforce, and may, in addition, recommend to the contracting agency that payments to the contractor be suspended pending a determination of the contractor's or subcontractor's compliance with such requirements. If the contractor or subcontractor does not agree to adopt or does not adhere to such a program, the commissioner shall make a determination as to whether the contractor or subcontractor is in compliance with the provisions of this section, and shall notify the head of the contracting agency of such determination and any sanctions, including withholding of payment, imposition of an employment program, or other sanction or remedy provided by law or by contract, which the executive director believes should be imposed. The head of the contracting agency shall impose such sanction unless he or she notifies the commissioner in writing that the agency head does not agree with the recommendation, in which case the commissioner and the

head of the contracting agency shall jointly determine any sanction to be imposed. If the agency head and the commissioner do not agree on the sanction to be imposed, the matter shall be referred to the mayor, who shall determine any sanction to be imposed.

i. Confidentiality. To the extent permitted by law and consistent with the proper discharge of the division's responsibilities under this section all information provided by a contractor to the division shall be confidential.

j. This section shall not apply:

1. to contracts for financial or other assistance between the city and a government or governmental agency;

2. to contracts, resolutions, indentures, declarations of trust, or other instruments authorizing or relating to the authorization, issuance, award, and sale of bonds, certificates of indebtedness, notes or other fiscal obligations of the city, or consisting thereof, except as otherwise provided by law or executive order; or

3. to employment by the city of its officers and employees which is subject to equal employment opportunity requirements of applicable law.

§ 7. Paragraph c of subdivision 3 of section 1602 of such charter is amended to read as follows:

c. to manage all real property of the city not used for public purposes, including real property acquired for a public purpose and not being currently utilized for such purpose, except wharf property[,] or other real property under the jurisdiction of the *department of business services*, the department of housing preservation and development, the New York city transit authority, and the New York city housing authority by virtue of an authorization granted by the mayor pursuant to the provisions of subdivision three of section one hundred twenty-five of the public housing law, or except as otherwise provided by law, real property under the jurisdiction of the triborough bridge and tunnel authority; *provided, that the commissioner shall be responsible for the management, leasing or permitting of any parcels of wharf property and water front property as provided in any designation made by the commissioner of business services pursuant to paragraph b of subdivision two of section thirteen hundred one of this charter.*

§ 8. Paragraph k of subdivision 6 of section 1802 of such charter, as added by vote of the electors at the general election held on November 7, 1989, is amended to read as follows:

(k) manage and superintend all residential real property of the city not used for public purposes, including real property acquired for a public purpose and not being currently utilized for such purpose, but not wharf property[,] or other real property under the jurisdiction of the *department of business services*, or real property under the jurisdiction of the New York city housing authority by virtue of an authorization granted by the mayor pursuant to the provisions of subdivision three of section one hundred twenty-five of the public housing law, or real property under the jurisdiction of the triborough bridge and tunnel authority;

§ 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 which the same were heretofore exercised and shall be authorized 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 the same, 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.

§ 10. 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.

§ 11. 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.

§ 12. No existing right or remedy of any character shall be impaired or affected by reason of the adoption of this local law. Any lease, license or permit 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 or issue such type of lease, license or permit is assigned by this local law to another agency or officer shall continue in force according to its terms and applicable law.

§ 13. Notwithstanding any provision of the charter to the contrary, the commissioner of business services shall, no later than sixty days prior to entering into any contract with a local development corporation for the provision of services to assist the department in performing any of the functions set forth in subdivision 2 of section 1301 of the charter where such functions were previously performed by the former department of ports and trade, provide the council with a copy of such proposed contract, together with a statement explaining the reasons which justify contracting for such purposes. The commissioner shall be authorized to enter into such contract unless, within such sixty day period, the council enacts a local law prohibiting the commissioner from contracting for such purposes.

§ 14. This local law shall take effect July 1, 1991, provided that if enacted after such date it shall take effect immediately and be deemed in effect as of July 1, 1991.

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 30, 1991, and approved by the Mayor on July 17, 1991.

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 61 of 1991, Council Int. No. 741-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on July 1, 1991:
24 for, 11 against.

Was approved by the Mayor on July 17, 1991.

Was returned to the City Clerk on July 18, 1991.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel