CODE OF ORDINANCES
City of
LONG BEACH, NEW YORK

Codified through
Ord. No. 3068/22 and LL XIII, enacted November 1, 2022.
(Supplement No. 82a)

Preliminaries

CHARTER
AND CODE OF ORDINANCES
OF THE CITY OF
LONG BEACH, NEW YORK

_____

CONTAINING THE
CHARTER, RELATED LEGISLATION
AND
THE GENERAL ORDINANCES
OF THE CITY

_____

Adopted, December 18, 1973

Effective, February 1, 1974

Amended to October 10, 1973

_____

Published by Order of the Council

_____

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Tallahassee, Florida 1974

Sec. 1. Short title.

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of the
CITY OF LONG BEACH,
NEW YORK

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John Bendo
Roy Lester
Tina Posterli

Council Members

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Donna Gayden
City Manager

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David W. Fraser
City Clerk

PREFACE

This volume contains the Charter and Related Acts and Local Laws of the City of Long Beach, New York, as amended, followed by a comparative table giving the disposition of the Acts and Local Laws included herein and a codification of the ordinances of a general and permanent nature of the city, which were deemed appropriate to be included, followed by a comparative table of ordinances, setting out the ordinances in chronological sequence, and their disposition.

That portion of this volume comprising the Code of Ordinances is an entire new codification and, as expressed in the Adopting Ordinance, supersedes all ordinances not included herein or expressly saved from repeal by the Adopting Ordinance. Special ordinances or those dealing with only a portion of the inhabitants of the City, rather than all of them, or relating to special purposes, such as ordinances levying special assessments, providing for bond issues, paving, vacating and opening specified streets, changing street names, granting franchises, etc., are not included herein. For a more specific enumeration of the type of ordinances which are not included herein, see Section 3 of the Adopting Ordinance.

The ordinances have been classified as to subject matter and edited. As will be noted, the chapters have been conveniently arranged in alphabetical order and the various sections within each chapter have been appropriately catchlined to facilitate usage. Attention is also invited to the appropriate footnotes which tie related sections of the Code together and which also refer to relevant state laws.

Sec. 1. Short title.

The source of the section is included in the history note in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time within the adoption of this Code.

The indices have been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology and still others in language generally used by city officials and employees. There are numerous cross references within the indices themselves which stand as guideposts to direct the user to the particular item in which he is interested.

New chapters may be included in this Code by the addition of a fraction after the chapter numbers, i.e., if the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12 1/2. Care should be taken that the alphabetical arrangement of chapters is maintained when adding new chapters. New articles and new divisions may be included in the manner, or in the case of articles, may be placed at the end of the chapter embracing the subject, and in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

A special feature of this volume to which the attention of the user is particularly invited is the looseleaf system of binding and supplemental servicing. With this looseleaf system, this volume will be kept up-to-date periodically. Acts of the State Legislature and Local Laws of the City which amend the Charter or pertain to the City can be inserted after reprinting the pages affected, adding new pages or deleting pages in case of repeal. Likewise, upon the final passage of amendatory ordinances, such ordinances will be edited and the appropriate page or pages affected will be reprinted for insertion in the Code. The new or reprinted pages will be distributed to the holders of the volume with instructions for the manner of inserting the new pages and deleting the obsolete pages. The indices will be treated in the same manner. To each such amendment will be attached an amendment or editorial note explaining briefly the effect of the amendment upon the section or sections amended and the derivation of such amendment. Each such subsequent amendment when incorporated into this Code, may be cited as a part hereof, as provided in Section 5 of the Adopting Ordinance.

The successful maintenance of this volume up-to-date at all times will depend largely upon the holder thereof. As revised sheets are received it will then become the responsibility of the holder to insert the amendments according to the attached instructions. It is earnestly recommended by the publisher's staff that all deleted pages be saved and filed for historical reference purposes.

Time and effort have not been spared in the preparation of this volume and the publishers are most grateful to Mr. David J. Weinblatt, Corporation Counsel, and Mrs. Frieda Mash, Deputy City Clerk, for their cooperation and assistance and for the interest shown by them in the preparation of the manuscript of this publication.

The publication of this volume was under the direct supervision of George R. Langford, President, and Charles H. Brown, of the editorial staff of Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully acknowledged also to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

This Code is presented for the use and benefit of the citizens of the City of Long Beach, New York.

Sec. 1. Short title.

December, 1973

The following Ordinance was moved by Mr. Smith and seconded by Mr. Eiberson

ORDINANCE NO. 1190/73

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE CITY OF LONG BEACH, NEW YORK; ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, EXCEPT AS HEREIN EXPRESSLY PROVIDED; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE OF ORDINANCES; AND PROVIDING A PENALTY FOR THE VIOLATIONS THEREOF.

BE IT ENACTED by the Council of the City of Long Beach, New York, as follows:

Section 1. That the Code of Ordinances, consisting of Chapters 1 to 25, each inclusive, is hereby adopted and enacted as the "Code of Ordinances of the City of Long Beach, New York," and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances of the City passed on or before December 31, 1971, to the extent provided in Section 2 hereof.

Section 2. That all provisions of such Code shall be in full force from and after the effective date of this ordinance and all ordinances of a general and permanent nature of the City of Long Beach, enacted on final passage on or before December 31, 1971 and not included in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided. No resolution of the City not specifically mentioned, is hereby repealed.

Section 3. That the repeal provided for in Section 2 hereof shall not affect the following:

(a) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;

(b) Any ordinance promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds of the City or any evidence of the City's indebtedness or, any contract or obligations assumed by the City;

(c) The administrative ordinances of the City, not in conflict or inconsistent with the provisions of such Code;

(d) Any ordinance creating jobs or positions, or any ordinance fixing salaries of officers or employees of the City or any ordinance providing social security, health insurance or retirement benefits for officers or employees of the City;

(e) Any appropriation ordinance;

(f) Any right or franchise granted by the Council to any person, firm or corporation;

(g) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the City;

(h) Any ordinance establishing and prescribing the street grades of any street in the City; or any ordinance prescribing standards and specifications for streets and sidewalks within the City;

(i) Any ordinance providing for local improvements or assessing taxes therefor;

(j) Any ordinance dedicating or accepting any plat or subdivision in the City, or providing regulations for the same;

(k) Any ordinance annexing property to the City;

(l) Any zoning ordinance of the City;

(m) Any ordinance prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles, loading zones or any other traffic regulations of the City not inconsistent with such Code;

(n) Any ordinance fixing utility rates and charges;

(o) Any ordinance enacted after December 31, 1971.

Nor shall such repeal be construed to revive any ordinance or part of an ordinance that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4. That whenever in such Code an act is prohibited or is made or declared to be unlawful or an offense or a violation by the Council, or whenever in such Code the doing of any act is required or the failure to do any act is declared to be unlawful by the Council and no specific penalty is provided therefor, the violation of any such provisions of such Code shall be punished as provided in Section 1-8 of such Code.

Section 5. That any and all additions and amendments to such Code when passed in such form as to indicate the intention of the Council to make the same a part thereof shall be deemed to be incorporated in such Code so that reference to the "Code of Ordinances of the City of Long Beach, New York," shall be understood and intended to include such additions and amendments.

Section 6. That in case of the amendment by the Council of any section of such Code for which a penalty is not provided, the general penalty as provided in Section 1-8 of such Code shall apply to the section as amended; or, in case such amendment contains provisions for which a penalty other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 7. That a copy of such Code shall be kept on file in the office of the City Clerk, preserved in looseleaf form or in such other form as the City Clerk may consider expedient. It shall be the express duty of the City Clerk or someone authorized by him, to insert in their designated places all amendments and all ordinances which indicate the intention of the City Council to make the same a part of such Code when the same have

been printed or reprinted in page form, and to extract from such Code all provisions which from time to time may be repealed by the City Council. This copy of such Code shall be available for all persons desiring to examine the same.

Section 8. That it shall be unlawful for any person to change or alter by additions or deletions, any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Long Beach to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 1-8 of the "Code of Ordinances of the City of Long Beach, New York."

Section 9. That all ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

Section 10. That this ordinance shall take effect on the 1st day of February, 1974.

TABLE INSET:

President Feuerstein	- AYE
Councilwoman Maller	- AYE
Councilman Eiberson	- AYE
Councilman Smith	- AYE
Councilman Wood	- AYE

APPROVED AS TO ADMINISTRATION:

/s/ James I. Nagourney
City Manager

APPROVED AS TO FORM:

/s/ David J. Weinblatt
Corporation Counsel

Sec. 1. Short title.

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PART I CHARTER AND RELATED LAWS

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Subpart B. Related Acts, §§ 1--50
Subpart C. Related Local Laws, §§ 1--57

Subpart A CHARTER*

***Editor's note:** This subpart contains the charter of the city, as originally enacted by Laws 1922, Chapter 635, with amendatory acts and local laws worked in. The charter is set out in this subpart as adopted and amended, with the original numbering system preserved. Where words of clarification have been inserted by the editor, such words are set out in brackets.

Art. 1. [In General], §§ 1--7
Art. 2. City Officers, §§ 8--19
Art. 3. City Officers; Their General Powers and Duties, §§ 20--43
Art. 4. Police Department, §§ 44--69
Art. 5. City Council, §§ 70--99-a
Art. 6. Assessment; Levy; Collection of Taxes, §§ 100--122-a
Art. 7. Nonproperty Taxes, §§ 123, 124
Art. 8. City Elections; General; Special; How Conducted, §§ 125--130
Art. 9. Department of City Planning and Development, §§ 131--139
Art. 9A. Zoning Board of Appeals, §§ 140--159
Art. 10. Fire Department, §§ 160--169
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Sec. 1. Short title.

ARTICLE 1. [IN GENERAL]

Sec. 1. Short title.

This act is a public act and shall be known as "The Charter of the City of Long Beach."

(L. 1922, Ch. 635, § 1)

Sec. 2. Boundaries; corporate limits.

The corporate limits of the City of Long Beach, County of Nassau, State of New York, shall include all those lands included within the following described boundaries:

> Beginning at a point that is formed by the intersection of the centre [*sic*] line of Reynolds Channel with the easterly line of said city running one hundred and sixty feet east of the westerly side of Maple Boulevard and parallel thereto, as the same would be if extended in a northerly direction to the centre [*sic*] line of Reynolds Channel, (as said boulevard is shown on map entitled "Map of Estates of Long Beach," filed as map number thirty-one in the office of the clerk of the County of Nassau on April twentieth, nineteen hundred and eleven); thence southerly and in a straight line running one hundred and sixty feet east of the westerly side of Maple Boulevard and parallel thereto to the mean high water line of the Atlantic Ocean; thence westerly along the mean high water line of the Atlantic Ocean to a point where a line parallel with and nineteen and one-half feet west of the easterly side of Nevada Avenue (as shown on map entitled "Map number two, west end, Long Beach, Long Island, New York," filed as map number five hundred and thirty-six in the office of the clerk of the County of Nassau on November thirteenth, nineteen hundred and twenty-three) intersects the said mean high water line, thence northerly along said line running nineteen and one-half feet west of the easterly side of Nevada Avenue and parallel thereto to the southerly side of Reynolds Channel and further along the said line as the same would be if extended on the same bearing in a northerly direction to the centre [*sic*] of Reynolds Channel; thence easterly along the centre [*sic*] line of Reynolds Channel as it winds and turns to the point or place of beginning, including all the territory within said bounds.

(L. 1922, Ch. 635, § 2; L. 1925, Ch. 668, § 1; L. 1926, Ch. 448, § 1)

Sec. 3. Corporate name and powers.

1. *City of Long Beach.* The citizens of the State of New York from time to time inhabitants within the boundaries of the City of Long Beach as aforesaid shall be a municipal corporation in perpetuity under the name of the "City of Long Beach." The said corporation may take, purchase, hold, sell and convey real and personal property; it may take by gift, grant, bequest and devise, and hold real and personal estate in trust for any purpose of education, art, health, charity or amusement, for parks or gardens, for the erection of statues, monuments, public buildings or other public use, upon such terms as may be prescribed by the grantor or donor and accepted by said corporation, and may provide for the

proper execution of said trust. Except as otherwise provided by law, the city shall have full power and exclusive control over the streets and highways, parks, public waters and other public places. It shall have power to lay out, enlarge and alter parks, markets, public grounds, public waters; construct pavements, sidewalks, culverts, sewers, aqueducts, wharves, canals, slips, basins, water mains, gas mains and conduits. It may, subject to a certificate of convenience and necessity duly granted by the public service commission, construct, lease or acquire by purchase or condemnation, and control and operate the public works for supplying the city, its inhabitants and industries within its limits with light, water, power, heat, ice, transportation of persons and property. It may enlarge, alter or make additions to any of the light, water or sewerage plants taken over by the city from the Village of Long Beach. It shall determine the valuation of property provided for purposes of taxation and to levy and collect taxes upon real and personal property and assessments on property benefited by local improvements. It may construct and maintain public buildings, public works and public improvements of all kinds deemed by it necessary for the welfare and comfort of its inhabitants, including local improvements, and levy upon the property benefited thereby the cost thereof in whole or in part. It may acquire land by purchase, gift or eminent domain for any municipal purpose and erect buildings and other structures, including one or more buildings to be used for public assembly, and do anything necessary to beautify the city or preserve or add to the safety, intelligence, comfort and well being of the city and its inhabitants, and may have, use, and from time to time offer, a common seal, and may sue and defend in all courts. It may do everything necessary to carry into effect powers granted to it and the duties imposed upon it by this act or under general laws of the state.

2. *Town of Hempstead.* The Town of Hempstead shall hereafter consist of all the territory heretofore constituting said town, except that portion thereof embraced within the boundaries of the City of Long Beach, and the territory embraced within the boundaries of said city as hereinbefore described shall not constitute or be a part of the Town of Hempstead. The City of Long Beach shall have no claim to the property, real or personal, owned by the Town of Hempstead, nor shall it bear any of the liabilities of the town. The taxes assessed for town, county and state purposes, upon lands within the City of Long Beach which became a lien on December first, nineteen hundred and twenty-one, and those which become a lien on June first, nineteen hundred and twenty-two, shall be due and payable to the town collector of the Town of Hempstead.

3. *Succession of liabilities.* The corporation known as the Village of Long Beach and included within the boundaries of said city is hereby dissolved, subject to the provisions of this act. The City of Long Beach shall succeed to and be vested with all the rights and property of the Village of Long Beach and shall succeed to and be liable for the entire bonded indebtedness and all the liabilities of said village corporation of every name and nature; and every suit, prosecution or proceeding commenced by or against said village corporation, and pending at the time this act takes effect, may be continued by or against and in the name of said village, or at the option of the officials of such city the name of the city may be substituted instead of the village corporation, and in the name of the city all suits, actions or proceedings may be continued. All divisions of said village into road, fire or other districts, highways, streets and parks shall remain, be and continue such divisions, highways, streets and parks in said City of Long Beach;

and all ordinances, rules and regulations of the board of trustees of said Village of Long Beach in force at the time this act takes effect shall be and continue to be in force, and shall have the same force, over the entire limits of the City of Long Beach as in and by this act established, until repealed, modified or changed by the council of said city, subject, however to the provisions of this act; the said council is hereby authorized and empowered in the name for and in behalf of the City of Long Beach to enforce all such ordinances, rules and regulations, and all contracts of said village, or agreements, including collections of all village taxes and assessments, debts and demands, imposition and collection of fines and penalties, prosecution and defense of all suits; and to do, take and perform all other acts and proceedings that may be or become necessary or proper to carry out and enforce said contracts, agreements, ordinances, rules and regulations, and the collection of taxes and assessments, with the same force and to the full extent as might have been done by or on the part of the board of trustees of said village, or by said village, and the rights and privileges of all persons or parties that may have arisen or accrued under, pursuant to or by reason of, any such contract, ordinance, rule or regulation, or otherwise, as well as any liability that may have arisen by reason thereof, shall remain and be the same under this act as they would have been under the village charter of said village; and all rights and liabilities of said village existing at the time this act takes effect shall be in no wise affected or change thereby; but all actions and proceedings which may be hereafter commenced to enforce or protect any such accrued or existing rights, privileges or liabilities shall be brought and prosecuted or defended by or in the name of the City of Long Beach. All rules and regulations pertaining to the government of the fire department of the said village in force at the time this act takes effect shall remain, be and continue the same under the said city as under said village government, until repeal thereof and the adoption of other or further rules and regulations in relation thereto. The ownership and control of all the village property and effects pertaining to or connected with the fire department of said village shall by virtue of this act vest in the City of Long Beach and in the fire department thereof in the same manner and to the same extent in all respects as the same is now vested in said village and fire department.

The assessors and the tax collector of the Village of Long Beach shall complete the assessment, levy and collection of taxes respectively, in the City of Long Beach for the current year. For this purpose they shall be assessors and collector respectively of the City of Long Beach; and such taxes shall be deemed taxes of the City of Long Beach, and the assessment and levy of such taxes by such assessors and all acts performed by them and by such tax collector are hereby confirmed and shall be as valid in all respects as though made and done by city officials elected or appointed under this act and all such taxes shall remain a lien on the property affected thereby until fully paid. Payment thereof may be enforced by action or by sale of the property affected thereby as provided in this act. The council of the City of Long Beach shall at its first meeting in June, nineteen hundred and twenty-two, or as soon thereafter as practicable, make up the budget for the city and all the departments thereof, anything herein to the contrary notwithstanding; such budget shall be for an amount sufficient for the needs of the city until December thirty-first, nineteen hundred and twenty-three.

Any proceeding heretofore initiated by the presentation of a petition to the board of trustees of the Village of Long Beach for the making of a public improvement in accordance with section one hundred and sixty-six and the Village Law or sections two hundred and sixty-four to two hundred and seventy-five, inclusive, of the Village Law (as

said sections now read or as they or any of them may be amended before this act goes into effect) shall not be affected by this act, but the same shall be concluded pursuant to the Village Law.

(L. 1922, Ch. 635, § 3; L. 1945, Ch. 339, § 1; L. 1953, Ch. 878, § 176)

Sec. 4. Definitions.

The official year of the city shall commence on the first day of January of each year. On and after the first day of July, 1975, the fiscal year of the city shall commence on the first day of July in each year and end on the thirtieth day of June of each succeeding year. The term "street" as used in this act, includes boulevards, highways, avenues, alleys and lands. The term "resolution" as used in this act, includes all motions, orders, rules, regulations and bylaws other than ordinances. The word "person" as used in this act, shall be construed to include all persons, firms, companies, corporations and associations.

(L. 1922, Ch. 635, § 4; L.L. No. 2, 1931, § 1; L.L. No. 3, 1974, § 1)

[Secs. 5--7. Reserved.]

ARTICLE 2. CITY OFFICERS

Sec. 8. City officers enumerated.

The officers of the City shall be five Councilpersons (including a President of the Council), a City Manager, a City Treasurer, a Tax Assessor and two Associate Tax Assessors, a City Clerk, a Corporation Counsel, a Commissioner of Public Works, one or more Deputy Commissioners, a Building Commissioner, a City Engineer, a Fire Commissioner, a Police Commissioner, a Commissioner of Public Safety, one or more City Marshals, one or more Superintendents of Departments, three members of a Civil Service Commission, so many Commissioners of Deeds as may be deemed necessary by the Council, and such other appointive officers as may be established by law, local law or ordinance. The Council may provide for the holding of two or more such offices by the same person, except that no Councilperson, members of the Civil Service Commission, or member of a City Planning Commission may hold any other office under the city government for which a salary may be paid.

(L. 1922, Ch. 635, § 8; L.L. No. 5, 1943, § 2; L.L. No. 1, 1946, § 1; L.L. No. 1, 1949, § 1; L.L. No. 1, 1950, § 1; L.L. No. 1, 1956, § 1; L.L. No. I, 2001, § 1; L.L. No. I, 2004, § 1;L.L. No XI/22, 10-18-2022)

Sec. 9. Elected city officers enumerated; term.

1. *Elective city officers.* The elective city officers, all of whom shall be elected by the city at large, shall be the five members of the council.

2. *Term of office.* The terms of the various councilpersons shall be determined in accordance with the provisions of Article 5, section 70, paragraph 2, of this Charter. The terms of all elective officers shall begin January first following their respective elections.

(L. 1922, Ch. 635, § 9; L.L. No. 1, 1933, § 1; L.L. No. 5, 1943, § 3; L.L. No. 4, 1982, § 1; L.L. No. I, 2001, § 1)

Sec. 9-a. Removal of elective officers; filling vacancy in elective office.

Any elective officer of the City of Long Beach may be removed from such office by the governor in the same manner as provided for the removal of sheriffs. Vacancies in the council shall be filled by appointment of the council. When a vacancy shall occur in any other elective office in the City of Long Beach because of the death, resignation, removal or any other cause whatsoever the same shall be filled at the next general election occurring not less than thirty days after such vacancy occurs, unless such election is the last general election before the end of the unexpired term. Unless and until the vacancy shall be so filled, the governor shall fill such vacancy by appointment and any person so appointed shall hold office until the thirty-first day of December next after the election at which such vacancy was filled, or, if it be not filled by election, until the end of the unexpired term.

(L. 1934, Ch. 444, § 1; L.L. No. 5, 1943, § 4; L.L. No. 3, 1944, §§ 1, 2; L.L. No. 2, 1947, § 1; L.L. No. I, 1969, § 1; L.L. No. I, 2001, § 1)

Sec. 10. Qualifications of elective officers.

No person shall be eligible to hold an elective office in the City of Long Beach unless he/she is an elector thereof and has been a resident and domiciliary thereof for two (2) years previous to his/her election. Whenever any officer of said city shall cease to be a resident and domiciliary of said city, his/her office shall thereupon become vacant.

(L. 1922, Ch. 635, § 10; L.L. No. 3, 1946, § 1; L.L. No. 5, 1946, § 1; L.L. No. 1, 1989, § 1; L.L. No. I, 2001, § 1)

Sec. 11. Appointive city officers enumerated; by whom appointed; their term of office.

A. The appointive officers of the City of Long Beach shall be a City Manager, a City Treasurer, a Corporation Counsel, a City Comptroller, one Fire Commissioner, a Tax Assessor and two (2) Associate Tax Assessors, a City Clerk, a Commissioner of Public Works, and one or more Deputy Commissioner(s) of Public Works who may also be Superintendent(s) of Public Works, a Building Commissioner, a Police Commissioner, one Commissioner of Public Safety, one or more City Marshals, a City Engineer, one or more Superintendents of Departments, three (3) members of a Civil Service Commission, as many Commissioners of Deeds as may be deemed necessary by the City Council, and such other appointive officers as may be established by law, local law or ordinance. All such officers shall be appointed by the City Manager upon the confirmation of the City Council, except that the City Manager shall be appointed by the City Council

B. Any officer or employee appointed as herein provided may be removed by the City Manager, except that the City Manager may be removed by the City Council in accordance with Section Twenty of the Charter, or as otherwise provided by applicable law. All appointive officers shall serve for an indefinite term except as otherwise provided by state law.

C. The City Council may provide for the holding of two (2) or more such offices by the same person, except that no member of the Civil Service Commission, or member of a City Planning Commission may hold any other office under the city government for which a salary may be paid. Any appointed official or employee may perform duties in one or more departments as the City Council may designate.

D. The head of each department, and each other officer appointed by the City Manager as the single head of an office, shall appoint their subordinates only with the approval of the City Manager. The City Manager may appoint a Police Commissioner and the Police Commissioner shall appoint, with the approval of the City Manager, as many regular and special patrolmen as the City Council determines to be necessary for the proper protection of the City of Long Beach.

E. The City Manager may appoint a Commissioner of Public Safety and as many subordinate employees and officers as the City Council may determine to be necessary for the proper protection of the City of Long Beach.

F. Subject to confirmation by the City Council, the City Manager may combine two

(2) or more of the city departments as are charged with the preservation of the public health, safety, and welfare, and place them under the jurisdiction of the Commissioner of Public Safety whose duty it shall be to supervise and administer said departments..

(L. 1922, Ch. 635, § 11; L.L. No. 2, 1924, §§ 1--3; L.L. No. 1, 1933, §§ 2, 3; L.L. No. 5, 1943, § 5; L.L. No. 1, 1946, § 3; L.L. No. 1, 1949, § 1; L.L. No. 1, 1950, § 1; L.L. No. 1, 1956, § 2; L.L. No. 2, 1978, § 1; L.L. No. I, 2001, § 1; L.L. No. I, 2004, § 1 L.L. No XII/22, 10-18-2022)

Sec. 12. Compensation.

The members of the council shall receive compensation from the City of Long Beach at a rate established in the annual budget duly passed, commencing July 1 of each year. Every other officer or employee of the city shall receive such compensation as the council shall determine unless another provision is made by this charter or by state law.

(L. 1922, Ch. 635, § 12; L.L. No. 4, 1926, § 1; L.L. No. 5, 1926, §§ 1--3; L.L. No. 2, 1932, § 1; L.L. No. 5, 1943, § 6; L.L. No. 3, 1947, § 1; L.L. No. 3, 1949, § 1; L.L. No. 3, 1952, § 1; L.L. No. 1, 1954, § 1; L.L. No. 3, 1958, § 1; L.L. No. 6, 1965, § 1; L.L. No. 1, 1967, § 1; L.L. No. 4, 1970, § 1; L.L. No. 6, 1973, § 1; L.L. No. 1, 1980, § 1; L.L. No. I, 2001, § 1)

Sec. 13. No extra compensation.

No officer or employee shall solicit or receive any pay, commission, money or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from any contract with the city or supplies sold to the city or by reason of any improvements, alterations or repairs required by authority of the city, except his lawful compensation or salary as such officer or employee. Notwithstanding the provisions of this section, a bank or trust company designated by the city council for the transaction of city business may include a bank or trust company of which any city officer or employee, except a councilman, the city manager or the city treasurer, is an officer, director or stockholder.

(L. 1922, Ch. 635, § 13; L.L. No. 2, 1958, § 1)

Sec. 14. Opinions not to affect appointments.

No appointment to any position under the city government shall be made or withheld by reason of any religious or political opinions or affiliations or political service; and no appointment or election to, or removal from, any office or employment, and no transfer, promotion, reduction, reward or punishment shall be in any manner affected or made by reason of such opinions, affiliations or service.

(L. 1922, Ch. 635, § 14)

Sec. 15. Bonds of city officers and employees.

The city manager, the city treasurer, the city comptroller and such other city officers and employees as the city council shall designate by ordinance, shall each execute and file with the city clerk a separate and individual bond or undertaking with sufficient sureties in such sums as shall be fixed by ordinance, conditioned for the

faithful performance of their respective offices and positions, and for the accounting and payment to the city of all moneys belonging to the city received by each of them, and with such other conditions as may be required by ordinance.

(L. 1922, Ch. 635, § 15; L.L. No. 2, 1960, § 1; L.L. No. 2, 1978, § 2; L.L. No. 3, 1983, § 1)

Sec. 15-a. Defense and indemnification of city officers and employees.

A. The City of Long Beach hereby elects to confer upon its officers and employees, as defined in Subsection C below, the benefits provided by Chapter 277 of the Laws of 1981 and Section 18 of the Public Officers Law and to be held liable for the costs incurred under the provisions of such law for the defense and indemnification of its officers and employees.

B. The benefits conferred by this section on the members of the Police Department shall be in addition to the benefits conferred upon such employees by Section 50-j of the General Municipal Law and contractual provisions.

C. Intent; definitions; defense and indemnification; conditions; limitations.

(1) *Council intent.* The purpose of this section is to provide legal and financial protection for those officers and employees defined in Subsection C(2) below from lawsuits and other proceedings which may be brought against them in their individual capacity for omissions or actions taken while acting within the scope of their employment. By enactment of this section, the City does not intend to establish or enlarge any direct liability of the City, or to limit or otherwise abrogate any existing right or responsibility of the City or its officers or employees with regard to indemnification or legal defense.

(2) *Definitions.* As used in this section, the following terms shall have the meanings indicated:

(a) EMPLOYEE -- Any person, whether or not compensated, holding a position by election, appointment or employment as a non-bargaining unit employee in the service of the City, or a volunteer expressly authorized by the appropriate City official to act for the benefit of the City, including any of its agencies, boards or commissions, but shall not include an independent contractor or any member of any district or authority created by the City. The term "employee" shall include a former non-bargaining unit employee, a non-bargaining unit employee's estate, or a judicially appointed personal representative.

(b) CORPORATION COUNSEL -- The duly appointed Corporation Counsel or such Deputy Corporation Counsel or Assistant Corporation Counsel designated to act on behalf of the Corporation Counsel.

(3) *City to provide for defense of employees.*

(a) If an employee complies with the provisions of Subsection C(5) of this section, the City, through the office of the Corporation Counsel, or through any applicable insurance program maintained

by the City, shall provide for the defense of the employee in any civil action or proceeding in any state or federal court, or any proceeding before an administrative agency, arising out of any alleged act or omission which occurred or is alleged to have occurred while the employee was acting within the scope of his or her public employment or duties. For purposes of this section, the determination of whether an employee was acting within the scope of his or her employment will be made by the City Manager, upon the advice of the Corporation Counsel, consistent with then prevailing law. Notwithstanding the above, no act can be so determined to be within the scope of employment if the commission of such act resulted in a conviction of a Class A misdemeanor or higher crime under the New York State Penal Law or similar federal crime under Title 18 of the United States Code. This duty to provide for a defense shall not arise where such action or proceeding is brought by or on behalf of the City against such employee.

(b) Subject to the conditions set forth in Subsection (a) of this subsection, the employee shall be entitled in such action or proceeding to be represented by the Corporation Counsel, or counsel designated by the Corporation Counsel, at no cost to the employee. The employee shall be entitled to representation by private counsel of the employee's choice in such action or proceeding at the expense of the City whenever the Corporation Counsel determines, based upon an investigation and review of the facts and circumstances of the case and of the prevailing law, that a conflict of interest exists between the employee and the City, or whenever a Court of competent jurisdiction determines that a conflict of interest exists and that the employee is entitled to be represented by counsel of the employee's choice at the expense of the City. Upon such a determination, the Corporation Counsel shall notify the employee in writing that the employee is entitled to be represented by private counsel of the employee's choice at the expense of the City. The Corporation Counsel may require, as a condition of the payment of the fees and expenses of such private counsel, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of this section at the expense of the City, the Corporation Counsel shall so certify this to the City Manager. Attorney fees and litigation expenses shall be paid to such private counsel only to the extent of appropriate and reasonable rates prevailing in Nassau County, as determined by the Corporation Counsel. Such attorney fees and litigation expenses shall be paid by the City to such private counsel from time to time while such action or proceeding is pending, upon submission by the private attorney of a detailed bill itemizing a description of the work performed, the hours worked, the rate per hour, and disbursements. However, no extraordinary disbursements or fees shall be paid to such private counsel unless prior written consent

of the Corporation Counsel was obtained. Such private counsel shall conform to all record keeping and notifications required by the Corporation Counsel.

(c) Any dispute with respect to representation or multiple employees by a single counsel, the reasonableness of attorney fees, or the amount of litigation expenses, shall be resolved by a court of competent jurisdiction upon motion or by way of a special proceeding.

(d) Where the employee delivers process and a written request for a defense to the Corporation Counsel as required by Subsection C(5) of this section, the Corporation Counsel shall take the necessary steps on behalf of the employee, including the retention of private counsel as provided in this section, to avoid entry of a default judgment against the employee pending a resolution of any issue pertaining to the obligation of the City to provide a defense.

(4) *City to provide for indemnification of employees.*

(a) If an employee complies with the provisions of Subsection C(5) of this section, the City shall indemnify and save harmless the employee in the amount of any final judgment, order or decision obtained against such employee in any civil action or proceeding in any state or federal court, or any proceeding before an administrative agency, or in the amount of any City approved settlement of any such action or proceeding, arising out of any alleged act or omission which occurred or is alleged to have occurred while the employee was acting within the scope of his or her public employment. For purposes of this section, the determination of whether an employee was acting within the scope of his or her public employment will be made by the City Manager, upon the advice of the Corporation Counsel, consistent with then prevailing law. Notwithstanding the above, no act can be so determined to be within the scope of employment if the commission of such act resulted in a conviction of a Class A misdemeanor or higher crime under the New York State Penal Law or similar federal crime under Title 18 of the United States Code. This duty to indemnify shall not arise where such action or proceeding is brought by or on behalf of the City against such employee.

(b) The amount of any such judgment, order or decision obtained against such employee, [or the amount,] or the amount of any City approved settlement, for which the City will indemnify and save harmless an employee consistent with this section, includes any amounts designated as compensatory, special, or other damages, including sanction, fines, costs and attorneys' fees as permitted by law.

(c) Any proposed settlement of such action or proceeding, for which indemnification by the City is sought, shall be reviewed and

approved only in accordance with this section. No employee will be indemnified or saved harmless by the City in accordance with this section in connection with any settlement unless such settlement is so reviewed and approved.

(d) Upon the entry or finalization of such judgment, order or decision against the employee, or upon the settlement of the action or proceeding, the employee shall cause a copy of such judgment, order, decision or approved settlement to be served personally, of by certified or registered mail, within thirty (30) days of the date of entry, finalization or settlement, upon the Corporation Counsel. If such judgment, order, decision or settlement is not inconsistent with the provisions of this section, the City Manager, upon the advice of the Corporation Counsel, shall certify it for payment.

(5) *Conditions.*

(a) The duty to defend, indemnify and save harmless as set forth by this section shall be conditioned upon delivery by the employee to the Office of the Corporation Counsel of the original or a true and complete copy of any notice of claim, summons, complaint, process, notice, demand or pleading as soon as possible, but in no event later than ten (10) days after the employee is served with such document or prior to the return date of such document, whichever is sooner, and the full cooperation of the employee in the defense of such action or proceeding, and in the defense of any action or proceeding against the City based upon the same or related acts or omissions, and in the prosecution of any appeals thereof. The above noted delivery of said notices of claim, summonses, complaints, processes, notices, demands or pleadings shall be deemed as a request by the employee that the City provided for his or her defense and indemnification pursuant to this section.

(b) Consistent with this section, the determination as to whether the City will defend and/or indemnify the employee will be based upon an investigation of the facts and circumstances of the matter. The City Manager, in accordance with this section, shall make this determination within a reasonable time after the completion of such investigation. Such determination shall be final, except as provided below.

(c) Such determination shall be in writing and mailed promptly by the Corporation Counsel to the employee. If the determination is adverse in whole or in part to the employee, it shall state the facts and reasons therefor.

(d) A determination favorable to the employee may thereafter be revised and/or revoked for good cause. The revised determination, or the revocation of such determination, shall be in writing and mailed by the Corporation Counsel promptly to the employee, and shall state the facts and reasons therefor.

(e) A special proceeding brought pursuant to Article 78 of the New

York Civil Practice Law and Rules shall be the exclusive method by which an employee aggrieved by a determination may seek review of the determination. If, as a result of such judicial review, the employee ultimately obtains a reversal of the determination, the City shall reimburse the employee for the attorney fees and costs charged the employee in obtaining the reversal, to the extent that such fees and costs were reasonable and necessary.

(6) *Limitation of benefits.* The benefits of this section shall inure only to employees as defined herein and shall neither enlarge nor diminish the rights of any other party, nor shall any provision of this section be construed to affect, alter of repeal any provision of the Workers' Compensation Law.

(7) *Effect on other laws.* This section shall not in any way affect the obligation of any claimant to give notice to the City under Section 50-e of New York General Municipal Law, or any other provision of any law.

(8) *Applicability.* The provisions of this section shall apply to all actions and proceedings then pending on the effective date of this section, or thereafter instituted.

(9) *Construction of provisions.* Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to establish or enlarge any direct liability of, or to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon, the City or any unit, entity, officer or employee of the City, or any right to a defense and/or indemnification provided for any City officer or employee by, in accordance with, or by reason of, any other provision of county, state or federal statutory, regulatory or common law.

(10) *Savings clause.* If any provision of this section, or the application thereof to any person or circumstances, is held unconstitutional or invalid in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such other provision to any other person or circumstances.

(L.L. No. 5-2002, § 1; L.L. No. III-2004, § 1;L.L. No. III/2021, 2021)

Sec. 16. Oath of office.

Every officer or salaried employee shall, before entering upon the duties of said office, take, subscribe and file with the clerk the constitutional oath of office.

(L. 1922, Ch. 635, § 16; L.L. No. III/2021, 2021)

Sec. 17. Payments of debts.

[The] failure of any employee to promptly pay any legal indebtedness for necessaries contracted for by him or her, while in the service of the city, or to pay any other legal indebtedness contracted for by him or her, shall not be ground for his or her removal from such employment.

(L. 1922, Ch. 635, § 17; L.L. No. 3, 1926, § 1; L.L. No. III/2021, 2021)

Sec. 18. Code of ethics.

1. [*Generally.*] Pursuant to the provisions of section eight hundred six of the general municipal law, the common council of the City of Long Beach recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this local law to promulgate these rules of ethical conduct for the officers and employees of the City of Long Beach. These rules shall serve as a guide for official conduct of the officers and employees of the City of Long Beach. The rules of ethical conduct of this local law [section] as adopted, shall not conflict with, but shall be in addition to any prohibition of article eighteen of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

2. *Definitions.*

   (a) "Municipal officer or employee" means an officer or employee of the City of Long Beach, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a fire chief or assistant fire chief.

   (b) "Interest" means a direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this article a municipal officer or employee shall be deemed to have an interest in: (i) the contract of a spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves; (ii) a firm, partnership or association of which such officer or employee is a member or employee; (iii) a corporation of which such officer or employee is an officer, director or employee; and (iv) a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

   (c) "Contract" means any claim, account or demand against or agreement with a municipality, express or implied, and shall include the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance, or other proceeding where such publication is required or authorized by law.

3. *Standards of conduct.* Every officer or employee of the City of Long Beach shall be subject to and abide by the following standards of conduct:

   (a) Gifts and favors. No officer or employee of the City of Long Beach, whether paid or unpaid, shall accept or solicit any valuable gift, whether in the form of services, loan, thing or promise or any other form, from any person, firm or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business or professional dealings

with the city or any agency thereof.

(b) Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his own personal interest or that of others.

(c) Representing private interests before city agencies. No officer or employee of the City of Long Beach whose salary is paid in whole or in part from the city treasury shall appear in behalf of private interests before any city agency; nor shall any officer or employee whose salary is paid in whole or in part from the city treasury represent private interests in any action or proceeding against the interests of the city, in any litigation to which the city is a party, or in any action or proceeding in which the city or any agency or any officer or employee thereof in the course of his official duties is a complainant, in a matter involving any violation of the municipal code.

(d) No person serving the city without compensation shall appear, either directly or indirectly, on behalf of private interests involving the agency, board, or commission which he serves or before any agency of the city affecting matters involving the agency in which he serves.

(e) Disclosure of interest:

1. Any officer or employee of the City of Long Beach, whether paid or unpaid, who has a direct or indirect financial or other private interest in any matter being considered by the city council or by any other official board, agency, officer or employee of the City of Long Beach, and who participates in discussions before or gives opinions to such board, agency or individuals, shall publicly disclose on the official record the nature and extent of such interest.

2. Any officer or employee of the City of Long Beach, whether paid or unpaid, who has knowledge of any matter being considered by any board, agency, officer or employee of the City of Long Beach in which he has any direct or indirect financial or other private interest, shall be required to disclose in writing his interest to such board, agency, officer or employee, and the nature and extent thereof.

3. A copy of every disclosure required under subsection "1" and "2" above, including a copy of every transcript containing such a disclosure, shall be promptly transmitted by the board, agency, officer or employee receiving such disclosure to the city clerk of the City of Long Beach who shall file and maintain same as a public record.

(f) Investments in conflict with official duties. He shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.

(g) Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or

impairs the proper discharge of his official duties.

(h) Future employment. No person who has served as officer or employee of the city shall within a period of two years after termination of such service or employment appear before any board or agency of the city or receive compensation for any services rendered on behalf of any person, firm, corporation or association in relation to any case, proceeding or application with respect to which such person was directly concerned, or in which he personally participated during the period of his service or employment, or which was under his active consideration or with respect to which knowledge or information was made available to him during the period of said service or employment.

4. [*Exceptions.*] Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the City of Long Beach, or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

5. *Board of ethics.* There is hereby created and established a board of ethics consisting of eight (8) members to be appointed by the city council, a majority of whom shall not be employees or officers of this city, all of whom shall reside in the City of Long Beach and who shall serve without compensation. Members of the board of ethics shall serve at the pleasure of the city council. The members of the board shall elect a chairman. The corporation counsel shall be a member ex officio of the board, and at least one member of said board shall be an elected or appointed municipal officer or employee.

The board shall render advisory opinions with respect to Article 18 of the General Municipal Law and of this code. All requests for opinions must be submitted to the board in writing. An opinion shall be rendered only to the person duly requesting it. Opinions may be rendered on the motion of the board or of any member thereof.

Such board, upon its formation, shall promulgate its own rules and regulations as to its forms and procedures and shall maintain appropriate records of its opinions and procedures.

6. *Distribution of code of ethics.* The city manager of the City of Long Beach shall cause a copy of this code of ethics to be distributed to every officer and employee of the city within twenty (20) days after the effective date of this local law [section]. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.

7. *Penalties.* In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any other provision of law or of this code may be fined, suspended or removed from office or employment as the case may be, in the manner provided by law.

8. *Effective date.* This local law [section] shall take effect twenty (20) days after it is filed as provided in section twenty-seven of the municipal home rule law.*

***Editor's note:** The local law from which this section is derived was amended in full on December 8, 1970, by Local Law No. 10 of 1970.

(L.L. No. 3, 1967, § 1; L.L. No. 1, 1968, § 1; L.L. No. 10, 1970, § 1; L.L. No. 2, 1971, §§ 1--3; L.L. No. 2, 1972, § 1; L.L. No. 6, 1980, § 1; L.L. No. III/2021, 2021)

Sec. 19. Financial and ethical disclosure.

1. (a) Every elected official, officer or employee and political party official and every candidate for city elected office shall file an annual statement of financial and ethical disclosure containing such information and in such form as is set forth in subdivision 3 of this section. Such statement shall be filed on or before the fifteenth day of May with respect to the preceding calendar year, except that:

   (1) A person who is subject to the reporting requirement of this subdivision and who has timely filed with the Internal Revenue Service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to file such financial and ethical disclosure statement on or before May fifteenth but may, without being subjected to any civil penalty on account of a deficient statement, indicate with respect to any item of the disclosure statement that information with respect thereto is lacking but will be supplied in a supplementary statement of financial and ethical disclosure which shall be filed on or before the seventh day after the expiration of the period of such automatic extension of time within which to file such individual income tax return, provided that failure to file or to timely file such supplementary statement of financial and ethical disclosure or the filing of an incomplete or deficient supplementary statement of financial and ethical disclosure shall be subject to the notice and penalty provisions of this section respecting annual statements of financial and ethical disclosure as if such supplementary statement were an annual statement;

   (2) A person who is required to file an annual financial and ethical disclosure statement with the board of ethics and who is granted an additional period of time within which to file such statement due to justifiable cause or undue hardship, in accordance with required rules and regulations on this subject, shall file such statement within the additional period of time granted;

   (3) Candidates for city elected office who file designating petitions for nomination at a primary election, shall file a financial and ethical disclosure statement within seven (7) business days after the last day allowed by law for the filing of designating petitions naming said candidates for the next succeeding primary election;

   (4) Candidates for independent nomination for city elected office who have not been designated by a party to receive a nomination shall file a financial and ethical disclosure statement within seven (7)

business days after the last day allowed by law for the filing of individual nominating petitions naming said candidates as candidates for city elected office in the next succeeding general or special election; and

(5) Candidates for city elected office who receive the nomination of a party for a special election shall file a financial and ethical disclosure statement within seven (7) business days after the date of the meeting of the party committee at which they are nominated.

(b) As used in this subdivision, the terms, "party", "committee" (when used in conjunction with the term "party"), "designation", "primary", "primary election", "nomination", "independent nomination", "ballot" and "uncontested office" shall have the same meanings as those contained in section 1-104 of the Election Law.

(c) Each financial and ethical disclosure statement shall be filed with the City of Long Beach Board of Ethics.

(d) The City of Long Beach Board of Ethics shall obtain from the Nassau County Board of Elections lists of all candidates for city elected office, and from such lists, shall determine and officially publish lists of those candidates who have not, within two (2) days after the required date for filing a financial and ethical disclosure statement, filed the statement required by this subdivision.

(e) All political party officials and any person required to file a financial and ethical disclosure statement who commences employment after April fifteenth of any year shall file such statement within thirty (30) days after commencing employment or of taking the position of political party official, as the case may be.

(f) A city elected official who is simultaneously a candidate for county elected office shall satisfy the filing deadline requirements of this subdivision by complying only with the deadline applicable to one who holds such city elected office.

(g) A candidate whose name will appear on both a party designating petition and on an independent nominating petition for the same office or who will be listed on the election ballot for the same office more than once shall satisfy the filing deadline requirements of this subdivision by complying with the earliest applicable deadline only.

2. As used in this article [section], the following terms shall be the meaning set forth beside such terms:

(a) The term "city" shall mean the City of Long Beach.

(b) The term "elected official" shall mean an elected official of the city.

(c) The term "officer or employee" shall mean such heads, deputies, assistants and employees of the departments, agencies, boards or commissions of the city (other than local elected officials), who hold policy-making positions as annually determined by the city council and set

forth in a resolution of said city council which shall be filed with the board of ethics on or about February 15th of each year, except that in the year 1994, such resolution shall be filed with the board of ethics on or about April 15th.

(d) The term "candidate" shall be deemed to apply to any person seeing [seeking] a nomination, designation or election to a public office.

(e) The term "reporting individual" shall mean the person required by this section to file an annual financial disclosure statement.

(f) The term "spouse" shall mean the husband or wife of the reporting individual unless living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to: (i) a judicial order, decree or judgment, or (ii) a legally binding separation agreement.

(g) The term "dependent" shall mean any of the following individuals over half of whose support, for the calendar year in which the taxable year of the reporting individual begins, was received from the reporting individual (or is treated under section 152 of, 26 U.S. Code as received from the reporting individual:)

(1) A descendant of an unemancipated child;

(2) A brother, sister, stepbrother or stepsister;

(3) The father or mother of the reporting individual or an ancestor of either;

(4) A stepfather or stepmother of the reporting individual;

(5) A son or daughter of a brother or sister of the reporting individual;

(6) A brother or sister of the father or mother of the reporting individual;

(7) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law of the reporting individual; or

(8) An individual (other than an individual who at any time during the reporting individual's taxable year was the spouse of the reporting individual) who, for the taxable year of the reporting individual, has as a principal place of abode the home of the reporting individual and is a member of the reporting individual's household.

(h) The term "political party official" shall mean any chairman of a city committee elected pursuant to the Election Law or designated by the rules of a city political committee as the "city leader" or "chairman of the executive committee" or by whatever title designated, pursuant to the rules of such city committee or, in actual practice, possesses or performs the principal political executive and administrative functions of said city committee or has the power of general management over the affairs of such city committee or the power to exercise the powers of the chairman of such city committee in accordance with the rules of such city committee or any person elected pursuant to the Election Law or

designated by the rules of any city committee, as the "city leader" of any political party.

(i) The term "relative" shall mean the spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the reporting individual or of the reporting individual's spouse.

(j) The term "unemancipated child" shall mean any son, daughter, stepson or stepdaughter under the age of 21, unmarried and living in the household of the reporting individual.

(k) The term "ministerial matter" shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

3. The annual statement of financial disclosure shall contain the information and shall be in the form set forth below:

ANNUAL STATEMENT OF FINANCIAL AND
ETHICAL DISCLOSURE
THE CITY OF LONG BEACH
(For calendar year _____)

1. Name _____

2. (a) Title of Position _____

(b) Department, Agency or other Governmental Entity

_____

_____

(c) Address of Present Residence _____

(d) Address of Present Office _____

(e) Home Telephone Number _____

(f) Office Telephone Number _____

3. (a) Marital Status _____. If married, please give spouse's full name including maiden name where applicable. _____

(b) List the names of all unemancipated children.

_____

_____

_____

_____

Answer each of the following questions completely, with respect to calendar year _____, unless another period or date is otherwise specified. If additional space is needed, attach additional pages. Whenever a "value" or "amount" is required to be reported herein, such value or amount shall be reported as being within one of the following Categories: Category A - under $5,000; Category B - $5,000 to under $20,000; Category C - $20,000 to under $60,000; Category D -

$60,000 to under $100,000; Category E - $100,000 to under $250,000; and Category F - $250,000 or over. A reporting individual shall indicate the Category by letter only.

For the purposes of this statement, anywhere the term "local agency" shall appear such term shall mean a local agency, as defined in section eight hundred ten of the General Municipal Law, of the political subdivision for which this financial and ethical disclosure statement has been filed.

4. (a) List any office, trusteeship, directorship, partnership, or position of any nature including honorary and membership positions, if known, whether compensated or not, held by the reporting individual with any firm, corporation, association, partnership, or other organization other than the State of New York or the City of Long Beach, if said entity was licensed by the City or any local agency, was regulated by the City or any local agency, or, as a regular and significant part of the business or activity of said entity, did business with, requested or received funds from, or had matters other than ministerial matters before, the City or any local agency. List the name of any such agency.

TABLE INSET:

Position	Organization	City or Local Agency

(b) List any office, trusteeship, directorship, partnership or position of any nature including honorary and membership positions, if known, whether compensated or not, held by the spouse or unemancipated child or other dependent or relative of the reporting individual, with any firm, corporation, association, partnership, or other organization other than the State of New York, if said entity was licensed by the City or local agency, was regulated by the City or any local agency, or, as a regular and significant part of the business or activity of said entity, did business with, requested or received funds from, or had matters other than ministerial matters before, the City or any local agency. List the name of any such agency.

TABLE INSET:

Position	Organization	City or Local Agency

(c) List any office, trusteeship, directorship, partnership, or position of

any nature, including honorary and membership positions, if known, whether compensated or not, held by the reporting individual or the spouse or unemancipated child or other dependent or relative of the reporting individual, with any firm, corporation, association, partnership or other organization, including municipal corporations, if said entity applied for funds to the same funding source and for the same purpose as did the City or local agency.

TABLE INSET:

Position	Organization	City or Local Agency

5. (a) List the name, address and description of any occupation, employment, trade, business or profession engaged in by the reporting individual, if such activity was licensed by the City or any local agency, was regulated by the City or any local agency, or, as a regular and significant part of the business or activity of said entity, did business with, requested or received funds from, or had matters other than ministerial matters before, the City or any local agency. List the name of any such agency.

TABLE INSET:

Position	Name & Address of Organization	Description	City or Local Agency

(b) If the spouse or unemancipated child or other dependent or relative of the reporting individual was engaged in any occupation, employment, trade, business or profession, which activity was licensed by the City or any local agency, was regulated by the City or any local agency, or, as a regular and significant part of the business or activity of said entity, did business with, requested or received funds from, or had matters other than ministerial matters before, the City or any local agency, list the name, address and description of such occupation, employment, trade, business or profession and the name of any such agency.

TABLE INSET:

Position	Name & Address of Organization	Description	City or Local Agency

(c) List the name, address and description of any occupation, employment, trade, business or profession engaged in by the reporting individual or the spouse or unemancipated child or other dependent or relative of the reporting individual, if such activity or the activity of the employer of the reporting individual, the spouse or unemancipated child of the reporting individual, involved the application for funds to the same funding source and for the same purpose as did the City or local agency.

TABLE INSET:

Position	Name & Address of Organization	Description	City or Local Agency

6. List any interest, in excess of $1,000, excluding bonds and notes, held by the reporting individual, such individual's spouse or unemancipated child, or partnership of which any such person is a member or corporation, ten per centum or more of the stock of which is owned or controlled by any such person, whether vested or contingent, in any contract made or executed by the City or any local agency and include the name of the entity which holds such interest and the relationship of the reporting individual or such individual's spouse or such child to such entity and the interest in such contract. Do not list any interest in any such contract on which final payment has been made and all obligations under the contract except from guarantees and warranties have been performed prior to the calendar year for which this statement is filed, provided, however, that such an interest must be listed if there has been an ongoing dispute during the calendar year for which this statement is filed with respect to any such guarantees or warranties.

TABLE INSET:

Self, Spouse Or Child	Entity Which Held Interest In Contract	Relationship to Entity and interest in Contact	Contracting State or Local Agency	Category of Value Of Contract

7. List any position the reporting individual held as an officer of any political party or political organization, as a member of any political party

committee or as a political party district leader. The term "party" shall have the same meaning as "party" in the election law. The term "political organization" means any party or independent body as defined in the election law or any organization that is affiliated with or a subsidiary of a party or independent body.

_____

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8. (a) If the reporting individual practices law, is licensed by the department of state as a real estate broker or agent or practices a profession licensed by the department of education, or if such an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, set forth a general description or the nature of any business activity, conducted by the reporting individual or his/her firm or corporation with the City or any local agency. Do not list the names of the individuals clients, customers or patients.

   (b) List the name, principal address and general description or the nature of the business activity of any entity in which the reporting individual or such individual's spouse had an investment in excess of $1,000, excluding investments in securities and interests in real property, if the business activity was with the City or a local agency.

   _____

   _____

   _____

   _____

9. List each source of gifts, including campaign contributions, received during the reporting period for which this statement is filed by the reporting individual or such individual's spouse or unemancipated child, excluding gifts from a relative, from any donor who had a contract with City during the last calendar year, or as a regular and significant part of the business or activity of such donor, did business with, or had matters other than ministerial matters, with the City or any local agency. Include the name and address of the donor. The term "gifts" does not include reimbursements, which term is defined in item 10. Indicate the value and nature of each such gift. The reporting individual may satisfy the requirement of this section to disclose campaign contributions by filing together herewith a copy of the financial disclosure form filed by the reporting individual with the Board of Elections.

TABLE INSET:

Sec. 19. Financial and ethical disclosure.

Self, Spouse Or Child	Name of Donor	Address	Nature of Gift	Category of Value Of Gift

10. Identify and briefly describe the source of any reimbursements for expenditures, including campaign expenditures, but excluding expenditures in connection with official duties reimbursed by the political subdivision for which this statement has been filed, in excess of $1,000 from each such source, only if such source had a contract with the City during the last calendar year, or as a regular and significant part of the business or activity of such source, did business with or had matters other than ministerial matters, with the City or any local agency. For purposes of this item, the term "reimbursements" shall mean any travel-related expenses provided by nongovernmental sources and for activities related to the reporting individual's official duties such as speaking engagements, conferences or factfinding events. The term "reimbursements" does not include gifts reported under item 9.

Source *Description*

_____

_____

_____

_____

11. List the identity and value, if reasonably ascertainable, of each interest in a trust, estate or other beneficial interest, including retirement plans other than retirement plans of the State of New York or the City of New York, and deferred compensation plans established in accordance with the internal revenue code, in which the reporting individual held a beneficial interest in excess of $1,000 at any time during the preceding year, only if such interest was established by some person or entity who had a contract with the City during the last calendar year or as a regular and significant part of the business or activity of the person or entity, did business with or had matters, other than ministerial matters, with the City or any local agency.

Identity *Category of Value**

_____

_____

_____

_____

*The value of such interest shall be reported only if reasonably

ascertainable.

12. Describe the terms of, and the parties to, any contract, promise, or other agreement between the reporting individual and any person, firm, or corporation with respect to the employment of such individual after leaving office or position (other than a leave of absence), if such person, firm or corporation had a contract with the City during the last calendar year, or as a regular and significant part of the business or activity of such entity, did business with or had matters, other than ministerial matters, with the City or any local agency.

_____

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_____

13. List below the nature and amount of any income in excess of $1,000 for the reporting individual and such individual's spouse for the taxable year last occurring prior to the date of filing, from each source under contract with, and/or, as a regular and significant part of the business or activity of such source, did business with or had matters, other than ministerial matters, before the City or any local agency. Nature of income includes, but is not limited to, salary for government employment, income from other compensated employment whether public or private, directorships and other fiduciary positions, contractual arrangements, teaching income, partnerships, honorariums, lecture fees, consultant fees, bank and bond interest, dividends, income derived from a trust, real estate rents and recognized gains from the sale or exchange of real or other property. Income from a business or profession and real estate rents shall be reported with the source identified by the building address in the case of real estate rents and otherwise by the name of the entity and not by the name of the individual customers, clients or tenants, with the aggregate net income before taxes for each building address or entity. The receipt of maintenance received in connection with a matrimonial action, alimony and child support payments shall not be listed.

TABLE INSET:

Self/ Spouse	Source	Nature	Category of Amount

14. List the sources of any deferred income in excess of $1,000 from each source to be paid to the reporting individual following the close of the calendar year for which this disclosure statement is filed, if the source was or is under contract with and/or, as a regular and significant part of the business or activity of such source, did business with or had matters, other than ministerial matters, before the City or any local agency.

TABLE INSET:

Sec. 19. Financial and ethical disclosure.

Source	Category of Amount

15. List each assignment of income in excess of $1,000 and each transfer other than to a relative during the reporting period for which this statement is filed for less than fair consideration of an interest in a trust, estate or other beneficial interest, securities or real property, by the reporting individual, in excess of $1,000 which would otherwise be required to be reported herein and is not or has not been so reported.

TABLE INSET:

Item Assigned or Transferred	Assigned or Transferred to	Category of Value

16. List below the type and market value of securities in excess of $1,000 held by the reporting individual or such individual's spouse from each issuing entity which is or was under contract with, and/or as a regular and significant part of the business or activity of such entity, did business with or had matters, other than ministerial matters, with the City or any local agency, at the close of the taxable year last occurring prior to the date of filing, including the name of the issuing entity, exclusive of securities held by the reporting individual issued by a professional corporation. Whenever an interest in securities exists through a beneficial interest in a trust, the securities held in such trust shall be listed only if the reporting individual has knowledge thereof except where the reporting individual or the reporting individual's spouse has transferred assets to such trust for his or her benefit in which event such securities shall be listed unless they are not ascertainable by the reporting individual because the trustee is under an obligation or has been instructed in writing not to disclose the contents of the trust to the reporting individual. Such securities of which the reporting individual or the reporting individual's spouse is the owner of record but in which such individual or the reporting individual's spouse has no beneficial interest shall not be listed. Indicate percentage of ownership if the reporting person or the reporting person's spouse holds more than five percent of the stock of such a corporation in which the stock is publicly traded or more than ten percent of the stock of a corporation in which the stock is not publicly traded. Also list securities owned for investment purposes by such a corporation more than fifty percent of the stock of which is owned or controlled by the reporting individual or such individual's spouse. For the purpose of this item the term "securities" shall mean bonds, mortgages, notes, obligations, warrants and stocks of any class, investment interests in limited or general partnerships and certificates of deposits and such other evidences of indebtedness and certificates of interest as are usually

referred to as securities. The market value for such securities shall be reported only if reasonably ascertainable and shall not be reported if the security is an interest in a general partnership that was listed in item 8(a) or if the security is corporate stock, not publicly traded, in a trade or business of a reporting individual or a reporting individual's spouse.

TABLE INSET:

Self / Spouse	Issuing Entity	Type of Security	Category of Market Value as of the close of the taxable year last occurring prior to the filing of this Statement	Percentage of Corporate stock owned or Controlled

17. List below the location, size, general nature, acquisition date, market value and percentage of ownership of any real property in which any vested or contingent interest in excess of $1,000 is held by the reporting individual or the reporting individual's spouse, if located within the City of Long Beach and whether any application, other than ministerial, has been made to the City or any local agency pertaining to such real property during the period for which this statement is being filed. Also list any such real property located within the City of Long Beach owned for investment purposes by a corporation any part of the stock of which is owned or controlled by the reporting individual or such individual's spouse if any application, other than ministerial, has been made to the City or any local agency pertaining to such real property during the period for which this statement is being filed. Do not list any real property which is the primary or secondary personal residence of the reporting individual or the reporting individual's spouse, except where there is a co-owner who is other than a relative.

TABLE INSET:

Self/ Location Other Party	Location	Size	General Nature	Acquisition Date	Category of Market Value	Percentage of Ownership

18. List below all notes and accounts receivable, other than from goods or

services sold, held by the reporting individual at the close of the taxable year last occurring prior to the date of filing and other debts owed to such individual at the close of the taxable year last occurring prior to the date of filing, in excess of $1,000, including the name of the debtor, type of obligation, date due and the nature of the collateral securing payment of each, if any, excluding securities reported in item 15 hereinabove. Only debts, notes and accounts receivable incurred by a person or entity under contract with, or as a regular and significant part of the business or activity of such debtor, did business with or had matters, other than ministerial matters, with the City or any local agency, are required to be reported hereunder.

TABLE INSET:

Name of Debtor	Type of Obligation Date Due, and Nature of Collateral, If any	Category of Amount

19. List below all liabilities of the reporting individual and such individual's spouse, in excess of $5,000 as of the date of filing of this statement, other than liabilities to a relative. Do not list liabilities incurred by, or guarantees made by, the reporting individual or such individual's spouse or by any proprietorship, partnership or corporation in which the reporting individual or such individual's spouse has an interest, when incurred or made in the ordinary course of the trade, business or professional practice of the reporting individual or such individual's spouse. Include the name of the creditor and any collateral pledged by such individual to secure payment of any such liability. A reporting individual shall not list any obligation to pay maintenance in connection with a matrimonial action, alimony or child support payments. Revolving charge account information shall only be set forth if liability thereon is in excess of $5,000 at the time of filing. Only liabilities owed to a creditor who had a contract with the City during the last calendar year, or as a regular and significant part of the business or activity of such debtor, did business with or had matters, other than ministerial matters, before the City or local agency, are required to be reported hereunder.

TABLE INSET:

Name of Creditor or Guarantor	Type of Liability And	Category of Amount

Sec. 19. Financial and ethical disclosure.

The requirements of law relating to the reporting of financial interests are in the public interest and no adverse inference of unethical or illegal conduct or behavior will be drawn merely from compliance with these requirements.

TABLE INSET:

_____ (Signature of Reporting Individual)	_____ Date (month/day/year)

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS "A" MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW.

4. (a) Willful failure to file or knowing and willful intent to deceive or provide false information is punishable as a civil penalty in an amount not to exceed ten thousand dollars ($10,000.00). The board of ethics may, in lieu of a civil penalty, refer a violation to the district attorney. Upon conviction of such, but only after such referral, such violation shall be punishable as a class "A" misdemeanor. A civil penalty for falsifying may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely undertaken. No other penalty, civil or criminal, may be imposed for a failure to file or a false filing of such statement of financial and ethical disclosure, except that disciplinary action may be imposed as otherwise provided by law or as may be provided by professional oversight or licensing agencies.

(b) Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty (30) days of imposition and upon becoming final, shall be subject to review at the instance of the affected reporting individual in a proceeding against the board of ethics pursuant to article 78 of the Civil Practice Law and Rules.

5. The board of ethics shall have the following additional powers when dealing with financial and ethical disclosure as set forth in this section.

(a) Adopt, amend, and rescind rules and regulations to govern procedures and financial and ethical disclosure required hereunder.

The board may utilize or modify such rules or regulations or adopt separate rules or regulations for the purposes of paragraph (d) of subdivision one of section eight hundred eleven of the General Municipal Law.

(b) Promulgate guidelines to assist the city council in determining which persons hold policy-making positions for purposes of this section.

(c) Make available forms for annual statements of financial and ethical disclosure required to be filed pursuant to this section.

(d) Review completed financial and ethical disclosure statements in

accordance with the provisions of this section.

(e) Receive complaints alleging a violation of the provisions of this section or a violation of the criteria for reporting requirements established by this section.

(f) Act as a repository for completed financial and ethical disclosure forms filed pursuant to this section.

(g) Upon certification of a question, the board may determine a question common to a class or defined category of persons or items of information required to be disclosed, where determination of the question will prevent undue repetition or prevent undue complication in complying with the requirements of this section.

(h) The records of the board which shall be available for public inspection only upon the filing of a proper request under article 6 of the Public Officers Law, which request shall be retained on file for seven (7) years, are:

(1) The information set forth in an annual statement of financial and ethical disclosure filed pursuant to this section except the categories of value or amount and the home address and home telephone number of the reporting individual, which shall remain confidential;

(2) Notices of delinquency;

(3) Notices of reasonable cause; and

(4) Notices of civil assessments imposed under this section.

(i) Notwithstanding the provisions of article 7 of the Public Officers Law, no meeting or proceeding of the board shall be open to the public, except if expressly provided otherwise by the board.

(j) The board shall inspect all financial and ethical disclosure statements filed with the board to ascertain whether any person subject to the reporting requirements has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of the code of ethics or this section.

(k) If a person required to file a financial and ethical disclosure statement with the board has failed to file a disclosure statement or has filed a deficient statement, the board shall notify the reporting person in writing, state the failure to file or detail the deficiency and advise the person of the penalties for failure to comply with the reporting requirements. The board may, in respect to a deficiency that is not willful, provide the person with a fifteen-day period to cure the deficiency. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the board shall send a notice of delinquency:

(1) To the reporting individual; and

(2) In the case of an officer or employee, to the appointing authority for such person.

(l) (1) If a reporting individual has filed a statement which reveals a possible violation of the code of ethics or this section, or the board receives a sworn complaint alleging such a violation, or if the board determines on its own initiative to investigate a possible violation, the board shall notify the reporting individual in writing, describe the possible or alleged violation of such law, and provide the person with a fifteen-day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation. If the board thereafter makes a determination that further inquiry is justified, it shall give the reporting individual an opportunity to be heard. The board shall also inform the reporting individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual. If the board determines at any stage of the proceeding that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the reporting individual and the complainant, if any. All of the foregoing proceedings shall be confidential.

(2) If the board determines that there is reasonable cause to believe that a violation has occurred, it shall send a notice of reasonable cause:

(i) To the reporting individual;

(ii) To the complainant if any; and

(iii) In the case of an officer or employee, to the appointing authority for such person.

(m) A copy of any notice of delinquency or notice of reasonable cause shall be included in the reporting individual's file and be available for public inspection.

(n) Upon written request from any person who is subject to the jurisdiction of the board, the board shall render advisory opinions on the requirements of said provisions. An opinion rendered by the board in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion, may also be relied upon by such person and may be introduced and shall be a defense in any criminal or civil action. Such requests shall be confidential, but the board may publish such opinions provided that the name of the requesting person and other identifying details shall not be included in the publication.

(o) In addition to any other powers and duties specified by law, the board shall have the power and duty to:

(1) Administer and enforce all the provisions of this section;

(2) Conduct any investigation necessary to carry out the provisions of this section. Pursuant to this power and duty, the board may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.

(p) Any person who reveals any information contained in any of the annual statements filed hereunder in violation of this section or in violation of article 6 of the Public Officers Law shall be subject to a civil penalty as provided for in section 19.4, hereof.

(L.L. No. I, 1994, § 1; L.L. No. III/2021, 2021)

Sec. 19. Financial and ethical disclosure.

ARTICLE 3. CITY OFFICERS; THEIR GENERAL POWERS AND DUTIES

Sec. 20. City manager.

1. The city manager shall be the chief executive officer of the city. Though his official title shall be city manager and that [*sic*] mayor, he shall be the mayor of the city and shall have and exercise all powers conferred upon the mayor by this act or by the general statutes of the state not inconsistent with this act. It shall be his duty to see that the laws of his state and the local laws, ordinances and by-laws passed by the council are faithfully executed within the city. He shall sign, on behalf of the city, all contracts made by it, and cause the seal of the city to be affixed thereto. He shall have power and authority to call out and command the police and firemen of the city whenever in his discretion he shall deem it necessary, and such command shall be in all respects obeyed. Whenever necessary for the prevention or suppression of public disturbances, mobs or riots, it shall be his duty to take such action as is authorized by the laws of the state. It shall be his duty to exercise a constant supervision and oversight over the conduct of all city officers, departments, boards and commissions, and he shall have power and authority to examine at all times the books, vouchers and papers of any officer or employee of said city, and to take and hear testimony and proof in pursuance of sections three hundred fifty-seven to three hundred sixty-five inclusive and four hundred three to four hundred fourteen inclusive of the Civil Practice Act. It shall be the duty of the city manager to communicate to the council as soon after the first of each year as practicable a complete report on the finances and administrative activities of the city for the preceding year, and as often thereafter as he may deem expedient, or as the council may request to communicate to the council a statement as to the affairs of the city in relation to its finances, government or improvement, with such recommendations as he may deem proper. The city manager, in addition to such other powers as may by law and this act be conferred upon him, shall have power to supervise all public utilities owned by the city and to exercise a general supervision over all public affairs of the city not otherwise provided for herein. He shall have such other rights and powers as may be provided by local law or ordinance not in conflict with this charter. He shall have the right to attend all meetings of the council and to speak on all questions coming before the council--but without vote. He shall have no veto power over the acts of the council and shall have no other legislative powers or duties. With the approval of the council he may fill any appointive administrative office in the city government instead of making a separate appointment thereto.

2. The city manager shall be appointed by vote of a majority of all the councilpersons for an indefinite term. He/she shall be chosen solely on the basis of his/her executive and administrative qualifications with special reference to his/her actual experience in, or his/her knowledge of, accepted practice in respect to the duties of his/her office as herein set forth. During his/her term of office he/she shall reside within the City of Long Beach within ninety (90) days of his/her appointment.

3. The city manager may be removed by majority vote of all the councilmen at any time for any reason or reasons the council may deem sufficient. Before making

such action final the council shall notify the city manager of its intention to remove him and shall give him a statement of reasons and notice of thirty days during which time he shall continue to receive his salary but may be suspended from the performance of his duties. If the city manager shall so request within ten days after such notice, he shall be given a public hearing before the council upon public notice of at least five days and in such case his removal shall not be voted on finally until a meeting of the council occurring after the day on which the public hearing is held.

(a) Notwithstanding any provision of this Charter or any ordinance, the city council may enter into a written employment agreement with the city manager for a term not to exceed three years and upon such terms and conditions as the city council shall agree.

4. To perform the duties of the city manager and to exercise his powers during any time when the city manager may be temporarily absent or incapacitated for serving, the city manager may designate by a letter filed with the city clerk another qualified administrative officer of the city. If the city manager fails to make such a designation, the council may appoint an administrative officer of the city to serve in such capacity for the duration of the absence or disability. The council may likewise designate an administrative officer of the city to serve temporarily as acting city manager during any time when the city manager is under suspension or when the office is vacant.

5. The city manager shall have the power to authorize attendance of any city officer or employee, as the case may be, to attend an official or unofficial convention or conference of municipal officers or employees, or to attend any school conducted for the betterment of municipal government if believed to be of benefit to the city.

6. The city manager, at each regular meeting of the city council, shall make a report to the city council and to the public, covering all personnel changes made in the period since the last regular meeting of the council, and such report shall include any changes made relating to the hiring, promotion, demotion, transfer or termination of any personnel in the employ of the city, whether salaried or unsalaried, including members of boards or commissions.

7. The city manager shall have the power and authority to convert, in any calendar year, up to one per cent of all unclaimed abandoned vehicles not affected by subdivision 2 of Section 1224 of the Vehicle and Traffic Law of the State of New York, or two (2) such vehicles, whichever is greater, to the city's own use.

(L. 1922, Ch. 635, § 20; L. 1943, Ch. 710, § 460; L.L. No. 5, 1943, § 7; L.L. No. 1, 1961, § 1; L.L. No. 7, 1975, § 1; L.L. No. 3, 1980, § 1; L.L. No. I/99, § 1; L.L. No. II/08, 2008, § 1; L.L. No. I/12, 2012, § 1)

Sec. 21. City treasurer; tax collector.

The city treasurer shall be a fiscal officer of the city and shall perform such duties incident to his office as the council may require. He shall keep an office at such place as the council shall provide and designate, which shall be kept open each day in the year, except Sundays and legal holidays, from nine o'clock in the forenoon until four o'clock in the afternoon, except between the hours of twelve and one o'clock, and at such other hours as the council may from time to time direct. He shall keep separate accounts of

the different funds of the city and shall not pay out any money chargeable to any fund in excess of the amount standing on his books to the credit of such fund, unless the council has by resolution transferred an amount in one fund to another fund and he shall not knowingly pay money from any fund which is not properly chargeable thereto. The city treasurer shall before the first meeting of the council in each month file with the city clerk a report showing in detail the total expenditures and receipts of city moneys during the next preceding calendar month, a summary statement of the receipts and expenditures of city moneys during that portion of the current fiscal year expiring with the last day of such preceding month, and the balance at the end of such month standing to the credit of the city funds. Such statement shall be in such form as shall be prescribed from time to time by the council. Before entering upon the duties of his office and within fifteen days after he shall have received official notice of his election the city treasurer shall execute and file an official bond with two or more sureties, or of some solvent surety company, in such penal sum as may be fixed by the council in accordance with section fourteen of the General Construction Law and sections eleven, twelve and thirteen of the Public Officers Law; and for omission so to do he shall be subject to the penalties and liabilities prescribed by section eighteen hundred and twenty of the Penal Law, and sections thirteen, fifteen and thirty of the Public Officers Law. Such bond shall be approved by the council with the certificate of the city clerk of such approval endorsed therein, and the bond so endorsed shall be filed and recorded in the clerk's office of the County of Nassau in the same manner as the official bond of town collectors, and in the event of default on the part of said treasurer such bond shall be a lien on all property owned by him at the time of such default together with all the costs and charges which may accrue upon the prosecution thereof; such bond shall continue in full force until the council shall by resolution declare that such bond is satisfied, and a copy of such resolution duly certified by the city clerk may be filed and recorded in the office of said city clerk and shall operate to discharge the same and the lien thereof from record. A true copy of such bond and certificate shall be filed in the city clerk's office. The city treasurer shall be the tax collector of the city with all the powers and duties hereinafter enumerated.

(L. 1922, Ch. 635, § 21; L.L. No. 3, 1978, § 1)

Sec. 22. City clerk.

The city clerk of said city shall be the registrar of vital statistics of said city. He shall perform such other duties incident to his office as may be required by the city manager, the common council or by any general statute of the State of New York, but notwithstanding any other provisions of this charter, he shall perform no duties performed by legislative officers or elective officers or elective employees. He shall have charge, custody and control of the corporate seal, books, papers and documents of the city and of the minutes of proceedings of the common council and shall index the same. He shall file the bonds of city officers as well as of all contractors and other bonds running to the city or any of its officers and note thereon the date of filing of each bond so filed. He shall upon request and payment of fees therefor to the city cashier, make certified copies of all records and documents in his possession or under his control and may affix the corporate seal of the city to any such certificate as his official seal and any such certified copies shall be admissible in evidence as provided in Section 4540 of the Civil Practice Law and Rules. He shall have the power to administer oaths and have such other powers as are vested in the recorder of a city by the general statutes of the State of New York.

The city clerk shall attend the council meetings and keep a permanent record of the proceedings. The city clerk shall perform all such duties imposed by the provisions of this charter, and he shall also perform such other duties incident to his office as may be required by the common council.

(L. 1922, Ch. 635, § 22; L. 1943, Ch. 710, § 461; L.L. No. 1, 1949, §§ 1, 2; L.L. No. 1, 1950, § 2; L.L. No. 4, 1971, § 1; L.L. No. 6, 1971, § 1)

Sec. 23. Corporation counsel.

The corporation counsel shall be the official legal advisor of the council and all boards and officers of the city including the assessors. He shall furnish on request written legal opinions to the council or any department of the city. He shall, when directed by the council, prosecute and defend all actions and proceedings by and against the city and every department thereof, and perform such other professional services relating to said city as the city manager or council may direct. He shall have the power to finally settle claims for and against the city in an amount not to exceed the sum of twenty-five thousand dollars ($25,000.00). He shall, when required, prepare all ordinances, resolutions, legal papers, contracts, deeds and other instruments for the city and the different departments thereof except as otherwise provided by the Local Finance Law. He shall at the expiration of his term of office hand and deliver to his successor in office as soon as qualified, the record or register of all suits or proceedings in which the city or any of its departments may be a party and also all papers on the part of the city therein, and also sign stipulations substituting said successor as attorney for the city to such suits or proceedings, to the end that a substitute order may be entered making such substitution. All costs in litigated cases, where the city is successful, shall belong to the city, and when collected shall be paid to the treasurer and credited to and from a part of the general fund of the city.

(L. 1922, Ch. 635, § 23; L. 1943, Ch. 710, § 462; L.L. No. 6, 1970, § 1; L.L. No. 1, 1978, § 1; L.L. No. 4, 2002, § 1)

Sec. 24. City engineer.

The city engineer shall perform all of the city engineering required by the council and by all departments and officers of the city. He shall make all preliminary surveys for the opening, widening, laying, constructing, paving, macadamizing, repairing, grading and establishing the grade of all streets, sidewalks and crosswalks, gutters, sewers, sewer inlets and the measurement of all work done on the same or other public place in the city, and prepare plans, profiles and specifications therefor when necessary or when required by the mayor or the council, and shall perform such other duties as may from time to time be required by the mayor and the council. He shall have no power to contract any liability or debt on the part of the city, except as authorized by the council. He shall keep in his office books and records and surveys of all maps and streets, avenues, walks and the grades thereof, and water mains, sewers, sewer inlets, and the locations and grades thereof. Such books and records shall be properly indexed and shall be the property of the city and transmitted with all other matters pertaining to his office to his successor. He shall receive such compensation for services rendered as may be approved by the council.

(L. 1922, Ch. 635, § 24)

Sec. 25. City physician and health officer.

The city physician shall be the health officer of the city. The city physician shall have all the powers and be subject to all the duties provided by ordinance of the council and by the Public Health Law.

(L. 1922, Ch. 635, § 25; L.L. No. I/21, 2021)

Sec. 26. Reserved.

Editor's note: Local Law No. I, 1996, § 1, repealed former section 26 in its entirety which pertained to the position of city supervisor and derived from Laws of 1922, Ch. 635, § 26; and Local Law No. 5, 1943, § 8.

Sec. 27. City comptroller.

The office of city comptroller is hereby created as an appointive office in the City of Long Beach. The city comptroller shall be the chief fiscal officer of the city.

1. *Duties:* It shall be the duty of the city comptroller:

   a. To keep and supervise the books of general accounts of the city which books shall include a general journal, general ledger, commitment register, claim record, appropriation ledger, and bond ledger and such other books that from time to time may be found necessary to properly reflect the financial condition of the city.

   b. To prescribe the form of receipts, vouchers, bills or claims to be filed by all departments, institutions, offices and agencies of the city government.

   c. To examine and approve all contracts, purchase orders and other documents by which the city incurs financial obligations, having ascertained before approval that moneys have been duly appropriated and allotted to meet such obligations and will be available when such obligations shall become due and payable and to record such obligations as encumbrances of the respective appropriation from which such obligations are to be paid.

   d. To audit and approve all bills, invoices, payrolls and other evidences of claims, demands or charges against the city and to determine the regularity, legality and correctness of the same.

   e. To prepare and submit to the council monthly statements of the financial condition of the city, annual reports to the state comptroller and such other reports as may be required by the city manager or the council. In order that such reports may be promptly prepared and submitted it shall be the duty of all officials and employees to keep all records current and to submit to the city comptroller all statements, bank balances, bank reconciliations and summaries kept by them daily, weekly or monthly, as required by him to properly prepare his reports.

   f. To perform such other duties pertaining to the financial records of

the city as may be directed by the council, the city manager or by any law or by any fiscal officer of the state authorized so to do by law.

2. All books, papers, files or other records pertaining directly or indirectly to the finances of the city shall be in such form and kept in such places as to be readily accessible to the comptroller for examination and audit.

3. All officials and employees who are charged with the receipt or the disbursement of any city moneys shall keep a daily record of such receipts and disbursements in the form which shall be prescribed by the city comptroller. They shall also keep such books, rolls and subsidiary ledgers as are prescribed by law or that may be prescribed by the city comptroller for the purpose of having a control for the accounts kept by him in the general books of the city. All officials or employees keeping such records are hereby required to balance such books, rolls and subsidiary ledgers periodically and in any event at least semiannually and at such times as the comptroller shall direct.

4. All officials and employees keeping records not directly dealing with receipts and disbursements but that may be used as a basis for determining amounts due or to become due the city or that may be the basis of claims against the city, shall keep such records in the form prescribed by the city comptroller. All time sheets, books and payroll records shall be kept in the form prescribed by the city comptroller.

5. All employees of the city are hereby charged with the duty of promptly preparing and submitting to the city comptroller any statements or reports or information pertaining to any account book or record kept by them or in their department which may be required in discharge of his duties.

(L.L. No. 1, 1944, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L.L. No. 2, 1978, § 3; L.L. No. 3, 1978, § 2)

Sec. 28. Continuity of government.

1. *Intent.* The New York State Defense Emergency Act, in section twenty-nine-a thereof, authorizes political subdivisions of the state to provide for the continuity of their governments in the event of an actual or imminent attack upon the United States by an enemy or foreign nation. The General Municipal Law, in section twenty-seven thereof, authorizes political subdivisions to provide for the continuity of their governments in the event of other public disasters, catastrophes or emergencies. Based on the authority contained in such laws this local law is adopted so that on such occasions the government of the City of Long Beach, New York, may continue to function properly and efficiently under emergency circumstances.

2. *Definitions.* As used in this local law [section] the following terms shall mean and include:

   a. "Attack". Any attack, actual or imminent, or series of attacks by an enemy or foreign nation upon the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shellfire, or

nuclear, radiological, chemical, bacteriological, or biological means or other weapons or processes.

b. "Public disaster". A disaster, catastrophe or emergency, actual or imminent, of such unusual proportions or extent that (1) a substantial number of the residents of the City of Long Beach either sustain injury, become ill, are infected with disease, have their lives imperiled, are killed or die as the result of injury, disease or exposure, or the property of a substantial number of such residents is imperiled, damaged, or destroyed, and (2) it is necessary and essential in the interest of public safety, health and welfare that the continuity of the government of the City of Long Beach be assured in order that it be enabled to function properly and efficiently and to exercise its essential powers in meeting emergency conditions. Such disasters, catastrophes and emergencies may include, but shall not be limited to conflagrations, explosions, earthquakes or other convulsions of nature, floods, tidal waves, pestilences, riots, insurrections, storms, prolonged failure of electric power or essential transportation services, or any incident or occurrence which causes or threatens to cause danger to life, health or property from exposure to noxious materials or radiation.

c. "Duly authorized deputy". A person authorized to perform all the powers and duties of a public office in the event the office is vacant or at such times as it lacks administration due to the death, absence or disability of the incumbent officer, where such authorization is provided pursuant to the provisions of any general, special, or local law other than this local law.

d. "Emergency interim successor". A person designated pursuant to this local law for possible temporary succession to the powers and duties, but not the office, of a city officer in the event that neither such officer nor any duly authorized deputy is able, due to death, absence from the city, or other physical, mental, or legal reasons, to perform the powers and duties of the office.

e. "Emergency management board". Shall be comprised of five (5) members including: The City Council President or the City Council President's designee; the City Manager or the City Manager's designee; the Police Commissioner or the Police Commissioner's designee; the Fire Commissioner or the Fire Commissioner's designee and the Corporation Counsel or the Corporation Counsel's designee. Said Board shall coordinate efforts for emergency preparedness; disaster relief; and shall hear and decide appeals and requests with respect to the Federal Emergency Management Agency ("FEMA").

3. *Designation, status, qualifications and terms of designation of emergency interim successors.*

a. Elective officers. Within thirty days following the effective date of this local law [section] [adopted March 3, 1964], and thereafter within thirty days after first entering upon the duties of his office, each elective officer shall, in addition to any duly authorized deputy, designate such number of emergency interim successors to the powers and duties of his office and

specify their rank in order of succession after any duly authorized deputy so that there will be not less than three duly authorized deputies or emergency interim successors, or combination thereof, to perform the powers and duties of the office.

b. Appointive officers. Each officer or body of officers empowered by law to appoint officers shall within the time specified in subdivision a of this section, in addition to any duly authorized deputy, designate for each such appointive officer such number of emergency interim successors to such officers and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three duly authorized deputies or emergency interim successors, or combination thereof, for each such officer. Where such a body of officers consists of members having overlapping terms, such body of officers shall review and, as necessary, revise the previous designations of emergency interim successors by such board within thirty days after a new member elected or appointed to such body of officers first enters upon the duties of his office as a member of such body of officers.

c. Review of designations. The incumbent in the case of those elective officers specified in subdivision a of this section [*sic;* probably should be "this subsection"], and the appointing officer or body of officers specified in subdivision b of this section [*sic;* probably should be this "subsection"] shall from time to time review and, as necessary, promptly revise the designations of emergency interim successors to insure that at all times there are at least three duly authorized deputies or emergency interim successors, or combination thereof, for each elective and appointive officer of the city.

d. Qualifications. No person shall be designated to, nor serve as, an emergency interim successor unless he is legally qualified to hold the office of the person to whose powers and duties he is designated to succeed.

e. Status of emergency interim successor. A person designated as an emergency interim successor shall hold that designation at the pleasure of the designator and such a designation shall remain effective until replaced by another by the authorized designator.

f. Compensation. An emergency interim successor shall serve without salary, unless otherwise provided by local law. He shall, however, be entitled to reimbursement for actual expenses necessarily incurred in the performance of his powers and duties.

4. *Assumption of powers and duties of officer by emergency interim successor.* If, in the event of an attack or a public disaster, an officer described in subdivision a or subdivision b of section [*sic;* probably should be "subsection"] three of this local law [*sic;* probably should be "section"] or his duly authorized deputy, if any, is unable, due to death, absence from the city, or other physical, mental, or legal reasons, to perform the powers and duties of the office, the emergency interim successor of such officer highest in rank in order of succession who is able to perform the powers and duties of the office shall, except for the power and duty to discharge or replace duly authorized deputies and emergency interim

successors of such officer, perform the powers and duties of such officer. An emergency interim successor shall perform such powers and duties only until such time as the lawful incumbent officer or his duly authorized deputy, if any, resumes the office or undertakes the performance of the powers and duties of the office, as the case may be, or until, where an actual vacancy exists, a successor is duly elected or appointed to fill such vacancy and qualifies as provided by law.

5. *Recording and publication of designations.* The name, address and rank in order of succession of each duly authorized deputy and emergency interim successor shall be filed with the city clerk and each designation, replacement, or change in order of succession of any emergency interim successor shall become effective when the designator files with such clerk the successor's name, address and rank in order of succession. Such clerk shall keep an up-to-date file of all such data regarding duly authorized deputies and emergency interim successors and the same shall be open to public inspection. The clerk shall notify in writing each designated person of the filing of his name as an emergency interim successor and his rank in order of succession and also shall notify in writing any person previously designated who is replaced or whose place in order of succession is changed.

6. *Qualification for taking office.* At the time of their designation, or as soon thereafter as possible, emergency interim successors shall take such oath and do such other things, if any, as may be required to qualify them to perform the powers and duties of the office to which they may succeed.

7. *Quorum and vote requirements.* In the event of an attack or a public disaster the president of the city council, or his duly authorized deputy or emergency interim successor performing his powers and duties, may suspend quorum requirements for the common council. If quorum requirements are suspended, any local law, ordinance, resolution, or other action requiring enactment, adoption or approval by an affirmative vote of a specified proportion of members may be enacted, adopted or approved by the affirmative vote of the specified proportion of those voting thereon.

8. *Separability clause.* If any section, subdivision, sentence, clause, phrase or portion of this local law [section] shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the section, subdivision, sentence, clause, phrase or portion thereof directly involved in the controversy in which such judgment shall have been rendered.

9. [*Emergency Management Board.*]The Emergency Management Board, shall hear and decide appeals when it is alleged there is an error in decisions or determinations made by the Local Administrator in the enforcement or administration of FEMA regulations.

   a. In reviewing such matters, the Emergency Management Board shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Local Law and:

      (i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the costs to local governments and the dangers associated with conducting search and rescue operations during period of flooding;

(xi) the expected heights, velocity, duration, rate of rise and sediment, transport of the flood waters and the effect of wave action, if applicable, expected at the site; and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

b. Upon consideration of the above stated factors, the Emergency Management Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of FEMA.

c. The local administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

d. Those aggrieved by the decision of the Emergency Management Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

10. *Conditions for Variances.*

a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i--xii) in Section 28.9 have been fully considered.

b. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".

(ii) the variance is the minimum necessary to preserve the historic character and design of the structure.

c. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(i) the criteria of subparagraphs a, d, e and f of this Section are met;

(ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

d. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

f. Variances shall only be issued upon receiving written justification of:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing Local Laws or Ordinances.

g. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

(L.L. No. 1, 1964, § 1; L.L. No. I, 2003, § 1; L.L. No. III/2021, 2021)

Sec. 29. Reserved

Editor's note: L.L. No. III/21, 201 repealed section 29 in its entirety. Former section 29 pertained to the Office of consumer protection and derived from L.L. No. I, 1970, § 1.

Sec. 30. Office for seniors.

A. *[Created.]* There shall be an office for seniors, the head of which shall be the director of office for seniors, who shall be appointed by the city manager, and [who shall] serve at the pleasure of the city council.

B. *Powers and duties of the director.* The director of the office for seniors shall have the following powers and duties:

(1) To advise and assist the city manager in developing policies designed to help meet the needs of seniors and to encourage the full participation of seniors in society;

(2) To coordinate programs and activities relating to seniors;

(3) To cooperate with and assist political subdivisions in the development of local programs for seniors;

(4) To render each year to the city manager a written report of the activities and recommendations of the office for seniors.

(L.L. No. 10, 1971, § 1; L.L. No. I/08, 2008, § 1)

[Secs. 31--43. Reserved.]

Editor's note: L.L. No. I, 2004, § 2, repealed section 31 in its entirety. Former section 31 pertained to the director of operations and derived from L.L. No. II, 2001, § 1.

Sec. 30. Office for seniors.

ARTICLE 4. POLICE DEPARTMENT

Sec. 44. Mayor as commissioner.

The mayor shall be the commissioner of police of the City of Long Beach. He shall have charge of the police department.

Sec. 45. Appointment of additional officers.

The city manager may appoint such clerks and assistants as may be necessary. The city manager may designate a harbor master, a sealer of weights and measures, and such other officers as may be required.

(L.L. No. 1, 1956, § 3; L.L. No. 1, 1962, § 1)

Sec. 46. Accounts and records.

The mayor shall cause to be kept proper accounts and records of the proceedings of the department. Such part of said accounts, records and proceedings as the public welfare may require shall be public.

Sec. 47. General powers and duties of commissioner.

The powers and duties of the commissioner which shall be performed and exercised as herein provided and in accordance with the laws of the state and the ordinances of the city shall be as follows:

(a) He shall assume and exercise supervision over the police department and make all proper rules for the government and discipline thereof;

(b) He shall have the custody and control of all property, books, records and equipment belonging to the department;

(c) He shall preserve the public peace and prevent crime, arrest offenders and protect the rights of persons and property, guard the public health, preserve order and enforce the laws of the state and ordinances of the city;

(d) He may change the titles of police officers and employees under him, except deputies, designating such titles as he may see fit, creating whatever offices and positions he may deem necessary for the proper organization and conduct of the department;

(e) He shall have power to administer oaths, take depositions and issue subpoenas;

(f) He shall have power, subject to the approval of the council, to erect and maintain police stations, garages, and barns, and to build and operate a telegraph signal system;

(g) He shall provide, through the purchasing department of said city, all materials and supplies for the use of the department;

(h) He shall, except as herein otherwise provided, collect all license money under the laws of the state and the charter and ordinances of the city, and account for the same;

(i) He may, with the approval of the council, in the name of the city take and hold by purchase, gift, devise, bequest or otherwise such real and personal property as may be needed for the purposes of the department;

(j) He shall recommend to the council the institution of condemnation proceedings whenever in his judgment private property should be taken in the name of the city for the purposes of the department;

(k) He may, with the approval of the council, sell and convey or lease lands whenever required by the interests of the city;

(l) He may make, with the approval of the council, all contracts to carry out the objects and purposes of the department as herein provided;

(m) He shall have such other powers as are herein prescribed or may be necessary hereunder for the proper discharge of his duties;

(n) He shall have supervision of all traffic, ordinances and regulations affecting streets, avenues, boulevards and other public places; keep a record in his office relative to accidents occurring therein incident to traffic; investigate the causes thereof; make recommendations to the council for necessary legislation to prevent and suppress such accidents, and shall through educational publicity among the people of the city seek to reduce the number of such accidents.

(o) He shall have power, as provided by Section 209(m) of the General Municipal Law of the State of New York, to contract with the Police Departments of other local governments situated within the County of Nassau, for the mutual or unilateral assistance between the Long Beach Police Department and such other local governments. Such assistance may be in the form of manpower, equipment, facilities, training and intelligence. In the case of an emergency, he may assist other local governments or request assistance from other local governments without prior written agreement.

(L.L. No. 2, 1989, § 1)

Sec. 48. Appointment of commissioner of police.

The mayor may, with the approval of the council, and when in the opinion of the mayor the growth of the city justifies his act, appoint a commissioner of police who shall have all the powers and assume all the responsibilities of the mayor while acting as commissioner of police as provided in this act.

(L. 1922, Ch. 635, § 48)

Sec. 49. Deputy commissioner.

The mayor may, with the approval of the council, appoint a deputy commissioner of police during the sickness, absence or other temporary inability of the mayor to

perform the duties of his office. The deputy commissioner shall perform the duties and have the powers of the mayor relating thereto, except that the deputy commissioner shall not have the authority to change any general rule or regulation or to make appointments or dismiss any member of the department.

(L. 1922, Ch. 635, § 49)

Sec. 50. Qualifications of members of the police department.

No person shall be appointed to or hold office who is not a citizen of the United States and who shall not have resided in the State of New York one year next preceding his appointment, who cannot read and write the English language, or who has ever been convicted of any felony.

The provisions of [this] section fifty as amended by this local law shall govern and control the qualifications of all members heretofore or hereafter appointed.

(L. 1922, Ch. 635, § 50; L.L. No. 4, 1939, § 1; L.L. No. 1, 1940, §§ 1, 2)

Sec. 51. Patrolmen of other departments.

The mayor may appoint persons in the employment of the city in other departments as special policemen or patrolmen. Such policemen shall possess the same powers as the regular patrolmen, except when otherwise restricted by direction of the mayor; obey the rules and regulations of the mayor and conform to the general discipline of the department.

(L. 1922, Ch. 635, § 51)

Sec. 52. Privately employed patrolmen.

The mayor may, on application of any person or persons showing the necessity therefor, appoint and swear in any number of additional patrolmen at the charge and expense of the person or persons by whom the application shall be made, to do duty at any place designated in the application or by the mayor. Such patrolmen shall hold office at the pleasure of the mayor subject to the rules and regulations of the department, and shall conform to the general discipline of the force and such regulations as shall be made for their government and may be removed at any time by the mayor without cause assigned therefor. They shall wear such dress and emblems as the mayor shall prescribe and shall possess, as conservators of the peace, all the powers and privileges and perform all the duties of the force herein prescribed. No such patrolman shall be appointed until he shall have paid to the mayor the sum of five dollars to be credited to the policemen's retirement fund, if any such fund be established, otherwise to a fund which shall be maintained for injured policemen or their families, and the appointment may be renewed annually upon the payment of a like sum.

(L. 1922, Ch. 635, § 52)

Sec. 53. Special patrolmen.

The city manager may, in case of emergency, riot, pestilence, invasion, or during any day of public election or celebration, or during the summer season, appoint for a specified time as many special patrolmen as he may deem advisable. During the terms

of service such special patrolmen shall possess all the powers and privileges and perform all the duties of patrolmen herein prescribed and shall receive such compensation as may be fixed by the city council.

(L. 1922, Ch. 635, § 53; L.L. No. 2, 1959, § 1)

Sec. 54. Oath of office.

The mayor shall require each member of the force to take the constitutional oath of office, and provide for the registry of a certificate thereof in a book to be kept for that purpose, which oath may be taken before said mayor or the deputy commissioner, who are hereby empowered to administer oaths.

Sec. 55. Bonds of certain officers.

The mayor may require the deputy commissioner, the heads of bureaus or any other officer or member of the force to give bond in such amount as the mayor may prescribe, conditioned upon the faithful performance of any duty connected with the care and disposition of any money or property under their control in connection with said department.

Sec. 56. Disposition of property seized as proceeds or instrumentality of a criminal act.

1. Definitions. In this subdivision:

   (a) *Property* means and includes personal property, money, negotiable instruments, securities or any interest in a thing of value, excepting real property.

   (b) *Proceeds of a crime* means any property obtained through the commission of any offense and includes any appreciation in value of such property.

   (c) *Substituted proceeds of a crime* means any property obtained by sale or exchange of proceeds of a crime, and any gain realized by such sale or exchange.

   (d) *Instrumentality of a crime* means any property, other than real property and any buildings, fixtures, appurtenances and improvements thereon, whose use contributes directly and materially to the commission of any offense.

2. Except as provided in article 13-A of the Civil Practice Law and Rules, proceeds of a crime, substituted proceeds of a crime or any instrumentality of a crime delivered to the property clerk shall be subject to forfeiture as prescribed in this section.

3. The City of Long Beach may commence a civil action for forfeiture to the City of Long Beach of a proceeds of a crime, substituted proceeds of a crime or instrumentality of a crime seized incident to an arrest for a misdemeanor crime or petty offense or upon a conviction for such misdemeanor crime or petty offense against any person having an interest in such property.

4. Any person from whom property is seized incident to his arrest for a misdemeanor crime or petty offense will receive written notice at the time the property is seized and inventoried or as soon thereafter as practicable that the City of Long Beach may commence an action for forfeiture of such property as the proceeds of a crime, substituted proceeds of a crime or instrumentality of a crime.

5. A civil action seeking forfeiture brought pursuant to this section shall be commenced in the City of Long Beach or in a court of competent jurisdiction within one hundred twenty (120) days after the seizure of the property. This notice provision shall be retroactive to September 5, 1988, and the Corporation Counsel shall have one hundred twenty (120) days from the effective day of this section to commence actions relating to seizures occurring between September 5, 1988, and the effective date of this section. Upon motion of the defendant or the Corporation Counsel, said action shall be stayed during the pendency of the criminal action relating to the property.

6. Except for property that the commissioner of police determines would aid enforcement within the City and property defined in subdivision (1), any property forfeited pursuant to the procedures established by this subdivision shall be sold at public auction, after having been advertised by the commissioner in the official newspapers of the City for a period of ten (10) days, in a suitable location to be designated by the commissioner for such purpose. The proceeds of such sale, and any other monies realized as a consequence of the forfeiture, shall be paid into the police department fund of the City of Long Beach to be used by the City of Long Beach police department for narcotics enforcement purposes.

7. If a person charged with a misdemeanor crime or petty offense is not convicted or does not plead guilty to any misdemeanor crime or petty offense, any property seized incident to that person's arrest will be returned to him by the property clerk of the City of Long Beach police department.

(L.L. No. 4, 1991, § 1)

Sec. 56A. Disposition of lost or abandoned property.

1. Except for property that the commissioner of police determines would aid law enforcement within the City and real property, all lost or abandoned property which is in the possession of the property clerk and is unclaimed by its owner for a period of six months and not otherwise subject to the provisions of this section, after having been advertised by the commissioner in the official newspapers of the city for a period of ten days, may be sold at public auction in a suitable location to be designated for that purpose.

2. The proceeds of such sale and such monies shall hereafter be paid into the general fund of the City of Long Beach to be used for drug rehabilitation, education or information purposes. Expenditures from the currently existing general welfare fund of the City of Long Beach police department, as established by order of the commissioner of police, shall be covered by itemized vouchers or claims in the name of the fund, verified by oath of the commissioner of police and subject to audit of the city comptroller. The existing resources of the fund may be expended pursuant to rules and regulations established by the commissioner of police.

(L.L. No. 1, 1991, § 1)

Sec. 57. Nuisances, strangers, et cetera.

The mayor shall cause to be made a report of all leaks and defects in water pipes and sewers and all defective sidewalks and street pavements to the proper authorities; he shall provide a proper force at every public fire to protect the firemen in the performance of their duties and the preservation of property for the owners thereof, and shall station officers at railway stations and other public places.

Sec. 58. Duties of policemen at polls on election day.

Nothing herein shall give the mayor or any patrolman power to do anything in conflict with the powers of inspectors of election. Policemen stationed at the polls on election days shall perform all the duties and be subject to all provisions of law relating to their attendance or to the attendance of constables at the polls on election days.

Sec. 59. Arrests.

In every case of arrest, the commanding officer on duty in the precinct wherein such arrest is made shall as soon as practicable make written return thereof according to the rules and regulations of the department. The mayor shall provide suitable accommodations for the detention and care of persons arrested for offenses. He shall also provide accommodations for the detention of witnesses who are unable to furnish security for their appearance in criminal proceedings and such accommodations shall be in places other than those for the confinement of persons charged with crime, fraud or disorderly conduct.

Sec. 60. Monthly financial report.

The mayor shall on the last day of each month cause to be filed with the treasurer a report giving the date of collection or receipt of all money collected or received by the department, and shall daily pay into the city treasury all moneys so collected or received.

Sec. 61. Application of funds.

All moneys paid into the city treasury by the mayor acting as police commissioner, except such moneys as are herein required to be credited to the police pension and retirement fund, shall apply exclusively on the payment of all expenses incurred by the department.

(L.L. No. VIII, 1970, § 1)

Sec. 62. Annual report.

The mayor acting as commissioner shall, on or before the fifteenth day of January in each year, make a written report to the council of the work of the police department during the previous year. The report shall be certified by the mayor, entered of record by the city clerk and published in such manner as the council may direct. The mayor or deputy commissioner or chief of police shall also make such other reports as

the council may from time to time require.

(L. 1922, Ch. 635, § 62)

Sec. 63. Complaints.

The mayor shall promptly investigate and make report to the bureau of complaints concerning all complaints referred by such bureau to the mayor relative to the administration of the department.

(L. 1922, Ch. 635, § 63)

Sec. 64. Payment of salary, medical and hospital expenses of policemen with injuries or illness incurred in performance of duties.

Any sworn police officer in the police department of the City of Long Beach appointed from a competitive civil service list who is injured in the performance of his duties or who is taken sick as a result of the performance of duty so as to necessitate medical or other lawful remedial treatment, shall be paid by the City of Long Beach the full amount of his/her regular salary or wages until his/her disability arising therefrom has ceased, and, in addition, the City of Long Beach shall be liable for all medical treatment and hospital care furnished during such disability. Provided, however, and notwithstanding the foregoing provisions of this section, the city physician may attend any such injured or sick sworn police officer, from time to time, for the purpose of providing medical, surgical or other treatment, or for making inspections, and the City of Long Beach shall not be liable for salary or wages payable to such sworn police officer, or for the cost of medical or hospital care or treatment furnished, after such date as the city physician shall certify that such injured or sick sworn police officer has recovered and is physically able to perform his/her regular duties of the department. Any injured or sick sworn police officer who shall refuse to accept such medical treatment or shall refuse to permit medical inspections as herein authorized, shall be deemed to have waived the rights under this section in respect to medical expenses incurred or salary or wages payable after such refusal.

Notwithstanding any provision of law contrary thereto contained herein or elsewhere, a cause of action shall accrue to the City of Long Beach for reimbursement in such sum or sums actually paid as a salary or wages and/or for medical or hospital treatment as against any third party against whom a sworn police officer shall have a cause of action for the injuries sustained.

(L.L. No. 3, 1953, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L.L. I/21, 2021)

Sec. 65. Further ordinances.

The council shall enact such ordinances as may be necessary to carry out the provisions of this act.

(L. 1922, Ch. 635, § 64; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1)

[Secs. 66--69. Reserved.]

ARTICLE 5. CITY COUNCIL

Sec. 70. City council, how composed; powers.

1. All the legislative powers of the city, howsoever conferred upon or possessed by it, are hereby vested in the council of the City of Long Beach, save as may be hereafter specially excepted.

2. Such council shall be composed of five councilmen elected by popular vote from the city at large, each of whom shall have the right to vote on all questions before the council. The regular election of councilmen shall be held in each odd-numbered year, in accordance with the Election Law of the State of New York. At the first election under this Charter five councilmen shall be elected; the two candidates receiving the greatest number of votes shall serve for terms of four years, and the three candidates receiving the next greatest number of votes shall be elected for terms of two years. Commencing at the next regular election and at all subsequent regular elections, three councilmen shall be elected; each of the two candidates receiving the greatest number of votes shall serve for a four-year term, and the one receiving the third greatest number of votes shall serve for a two-year term.

3. Three members of the council shall constitute a quorum and the affirmative vote of three-fifths of the entire council shall be necessary to adopt any motion, resolution or ordinance or pass any measure unless otherwise provided for in this act or the Local Finance Law.

4. The council shall exercise all the corporate powers conferred on the city by this act and, except as otherwise provided by law or this act, shall have the management and control of the conveyance of all the property, real and personal, belonging to said city corporation, and shall have the power within said city to make, establish, publish and modify annually, and repeal, local laws, ordinances, rules, regulations and by-laws for any of the purposes specified in this act. It shall, for all purposes, be the common council of the city.

(L. 1922, Ch. 635, § 70; L. 1943, Ch. 710, § 463; L.L. No. 5, 1943, § 7; L.L. No. 2, 1947, § 7; L.L. No. 6, 1974)

Sec. 71. Meetings, president and temporary president.

1. Meetings of the council shall be public. Stated meetings thereof shall be held at such times as the council shall prescribe by ordinance.

2. Upon every vote of the council the ayes and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing and read before the vote thereon is taken.

3. The council shall elect from its own number, by a vote of the majority of its members, a president of the council who shall preside at all meetings of the council and shall have such other powers, duties, and responsibilities as the council shall prescribe. The president shall serve as such for the term of the council which elected said president, subject, however, to the right of the council by a vote of a majority of its members to change its president at any time.

4. The council shall also choose a temporary president, in the same manner, for the same term, and subject to the same right of change, as the president. The temporary president shall preside at meetings of the council and perform the other duties of the president whenever the president shall be absent. In the absence of both the president and the temporary president the council may choose a presiding officer for a particular meeting by a majority vote of the councilmen present.

5. Every resolution, local law or ordinance passed by the council must be signed by the president of the council, by the temporary president in the absence of the president, or by three council members. The record kept by the city clerk shall constitute a journal of the proceedings of the council meeting and the city clerk shall cause a summary or the full text of the item together with its disposition to be published on the City's website.

(L. 1922, Ch. 635, § 1; L.L. No. 5, 1943, § 8; L.L. No. 2, 1947, § 3; L.L. No. 1, 1975, § 1; L.L. No. III/2021, 2021)

Sec. 72. Special meetings.

Special meetings of the council may be held upon call of the president or temporary president of the council or any three councilmen and also as may be provided by resolution or rule. Notice of all special meetings shall be given by delivering personally to each member, or leaving at his residence, at least twelve hours before each such meeting a written notice thereof, signed by the person or persons calling the same. Such notice shall specify the object of such meeting and no other business shall be transacted except upon unanimous consent of all the members of the council.

(L. 1922, Ch. 635, § 72; L.L. No. 5, 1943, § 8)

Sec. 73. Rules.

The council shall determine its own rules of procedure, may punish its members for disorderly conduct and compel their attendance at the council meetings.

(L. 1922, Ch. 635, § 73)

Sec. 74. Additional authority conferred on council.

The council shall, in addition to the authority conferred under general laws, from time to time enact ordinances:

1. To define and prevent disorderly conduct; to prevent all disorderly assemblages, all disturbing noise, all drunkenness in public places; and to punish vagrants, beggars and disorderly persons as defined by law;

2. To preserve and protect the harbors, canals, basins and other waters of the city; to prevent all encroachments, obstructions, and deposits in them; to prohibit or regulate bathing or swimming in any waters in the city; to prevent any steam vessel, while navigating waters within the city, from emitting dense smoke, soot or dust within the city limits; to regulate and prescribe the mode and speed of vessels, boats and floats in entering and leaving, coming to, lying at or departing from, the wharves and piers,

and the disposition of the sails, yards, anchors and appurtenances, and to empower such officer as it may designate to prescribe and regulate the location therein of all vessels, boats or floats and to compel them to change their location;

3. To regulate the height and bulk of buildings and the area of yards, courts and other open spaces, and to regulate and restrict the location of trades and industries and the location of buildings designed for specific uses, and to fix the street line of all buildings; to prescribe general regulations for the erection of all buildings in the city; to define the limits within which wooden buildings shall not be erected, placed or rebuilt, and the manner in which, and the materials of which, all buildings shall be constructed within such limits, and also to define outer limits in which wooden buildings may be constructed, placed or rebuilt, under such regulations as may be imposed by ordinance, special permission from the council being required therefor. Every building erected or placed contrary to any ordinance passed under the above provisions shall be deemed a common nuisance, and may be abated as such; to regulate and prevent the use of fireworks and firearms in the city; to prevent bonfires in the streets and public grounds, and to require fire-escapes [*sic*] to be placed upon buildings when and as directed by the commissioner; to punish the wilful making of a false alarm of fire or wilfully calling the police without cause.

4. To license and regulate cartmen, porters, owners and drivers of taxicabs and all vehicles used for the transportation of passengers or property for hire, and persons or corporations offering or supplying messenger service, and to fix the rates of compensation to be taken by them; to license and regulate plumbers, auctioneers, butchers, hawkers, peddlers, junk dealers, dance halls, dancing schools and other entertainments of like character, pawnbrokers and the business of pawnbrokerage, and to fix the rates to be charged by pawnbrokers in their business; to regulate the running at large of dogs, and to license the same; to prohibit, license or regulate public billiard rooms, bowling alleys, runners or solicitors for houses of entertainment, railroads, vessels and vehicles and the exhibition of shows of every kind and of theatrical representations, and to prescribe the terms and conditions on which license shall be granted; to impose and levy a tax upon the owner or owners of hackney carriages, sleighs, cabs, coupes, private carriages, barouches, buggies, wagons, omnibuses, carts, drays, baggage wagons, bicycles, tricycles and similar vehicles or any other vehicle other than motor vehicles for the privilege of operating, driving or propelling the same along or upon the public streets, avenues, highways and other public places in the city; to fix the amount of such tax, and to prohibit the use of the public streets, highways, avenues and other public places of the city by the owner or owners or driver or drivers of any such vehicle in the event of any tax so imposed not being paid, and to fix and provide such penalty or penalties as it shall deem proper for a violation of any such ordinance; to regulate and license occupations and businesses of every description;

5. To prevent and abate any nuisance; to require any railroad company to keep a flagman or gates at each railroad crossing of a public street; to

provide for the inspection of steam engines and boilers used in the city, and to prohibit the use of unsafe ones; to prevent the encroachment upon, projections over, injury to, or the incumbering of streets, alleys, wharves and public grounds;

6. To require bonds or undertakings to be given by the officers of the city and their deputies and to fix the amount thereof;

7. For the protection of the public health, to secure the proper registration of births, marriages, deaths and such other statistical information as may be necessary for the efficient working of the department of public safety;

8. To prescribe the duties of all officers or persons elected or appointed under this act, not herein prescribed; to prescribe the methods of auditing and paying any and every indebtedness (other than the payment of an indebtedness evidenced by bonds or notes) of the city and any and every claim against the city; to prescribe the manner in which and the purposes for which the moneys annually appropriated may be used; to prescribe the methods by which the city may incur indebtedness (other than an indebtedness evidenced by bonds or notes); to prescribe the methods by which each and every official or person in the employ of the city shall keep or assist in keeping account of the receipts and disbursements of moneys belonging to the city, and of work done for or supplies or materials furnished to the city, any provision of this act to the contrary notwithstanding;

9. To pass such other and further ordinances not inconsistent with the laws of the state as shall be deemed expedient for the good government of the city, the protection of its property, the preservation of peace and good order, the suppression of vice, the benefit of trade or commerce, the preservation of health, the prevention and extinguishment of fires, and the exercise of its corporate powers and the performance of its corporate duties.

(L. 1943, Ch. 710, § 464; L.L. No. III/2021, 2021)

Sec. 75. Official newspaper.

The council shall designate one or more newspapers published in the City of Long Beach or in the Town of Hempstead, and printed in the English language, to be the official papers of the City of Long Beach.

(L.L. No. 2, 1963, § 1; L.L. No. 1, 1975, § 2)

Sec. 76. Publication of ordinances.

Every ordinance shall be adopted in accordance with the procedure set forth in this section:

(a) A proposed ordinance shall be introduced by the council causing a notice to be published in the official newspaper setting forth the title, summary or full text and the time and place for public hearing on the matter. The public hearing on any proposed ordinance shall follow publication by at least five (5) days, and said hearing may be held separately or at a

regular or special council meeting. After the hearing the council may adopt said ordinance with or without amendment or reject it. If the ordinance is adopted by the council, a summary or the full text shall be printed in the official newspaper.

(b) Notwithstanding the provisions of subdivision (a), in cases of special emergency, for the preservation of the public peace, health or safety, an ordinance may be passed on the date it is introduced, to take effect upon passage. An emergency ordinance may be adopted with or without amendment, but the unanimous vote of all members present shall be required for adoption. After adoption of an emergency ordinance the full text shall be printed in the official newspaper within fourteen (14) days thereafter. No ordinance making grant of any franchise or special privilege shall ever be passed as an emergency measure.

(L.L. No. 1, 1955, § 1; L.L. No. 2, 1955, § 1; L.L. No. 3, 1970, § 1; L.L. No. 1, 1975, § 3)

Sec. 77. [Public hearings on proposed local laws.]

When a proposed local law shall be in its final form the council of the City of Long Beach shall fix a day, and the hour of such day, for a public hearing before it concerning such local law. The clerk shall cause public notice of the time of such hearing to be published in the official paper of the City of Long Beach in its next issue, such hearing shall be had not earlier than five days after the publication. Such notice shall contain the title of such local law and an explanatory statement thereof prepared by the clerk.

(L.L. No. 1, 1924, § 1; L.L. No. 1, 1926, § 1; L.L. No. 2, 1926, § 1; L.L. No. 4, 1946, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1)

Sec. 78. Council may maintain sinking funds; provisions relating to mandatory redemptions and appropriations therefor.*

***Editor's note:** The second phrase of this catchline refers to subsection (b) of this section which was established by Local Law No. 1 of 1951 and which was repealed by Local Law No. 5 of 1957; however, the catchline was not amended to reflect the deletion.

(a) *The council may by resolution establish and maintain sinking funds for the amortization and redemption of any obligations of the city.

***Editor's note:** This section was originally divided into subsections (a) and (b), as established by Local Law No. 1 of 1951. Subsection (b) was repealed by Local Law No. 5 of 1957, but the designation of the remaining subsection as (a) was not changed.

(L.L. No. 1, 1928, § 1; L. 1940, Ch. 92, § 1; L. 1943, Ch. 710, § 465; L. 1945, Ch. 339, § 1; L.L. No. 1, 1951, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L.L. No. 5, 1957, § 1)

Sec. 79. Council may rebuild public service plants.

The council of the City of Long Beach may enlarge, rebuild, remodel and reequip the public service plants of the city; may acquire, construct or reconstruct public works or may contract for the work, material and equipment necessary therefor, subject to the provisions of the charter of the City of Long Beach, the General City Law and the General Municipal Law. The adoption by the council of an ordinance authorizing the issuance of bonds, capital notes, bond anticipation notes, or budget notes shall be deemed to authorize the contracting of debt for such purpose or for such other purposes as are authorized by and subject to the provisions of the Local Finance Law. The cost of such improvements may be locally assessed either in whole or in part against such property as the city council shall determine to be benefited thereby.

(L. 1922, Ch. 635, § 80; L. 1943, Ch. 710, § 466; L. 1945, Ch. 839, § 28; L.L. No. 6, 1957, § 1)

Sec. 80. [Special assessment procedure.]

1. Whenever real property in the City of Long Beach comes to be assessed for the cost, in whole or in part, of an improvement, the council shall make a written report of an apportionment of such cost to be levied as assessments against the respective lots or parcels of land within such improvement territory or area.

2. Such assessments shall be apportioned on the basis of either:

   (1) Ratably on the amount of square feet in each lot or parcel of land within the improvement territory or area, or

   (2) Ratably on the assessed value of said respective lots or parcels of land as the same shall appear from the assessment roll of the city for the current year, or

   (3) Ratably on the lineal foot frontage on the street, boulevard, highway, avenue, alley, canal, waterfront, or public ground to be improved, or

   (4) The actual cost of the improvement to or adjoining each of the said respective lots or parcels of land, together with the general cost of engineering, mobilization and demobilization of equipment and similar costs apportioned in proportion to the actual cost of improvement to or adjoining each such lot or parcel of land.

3. Such report of apportionment of assessment, on such day as the council may designate, shall be filed in the office of the city clerk, and thereafter shall be, and remain open to public inspection each day from ten o'clock in the forenoon to four o'clock in the afternoon, except Saturdays, Sundays, legal holidays and days when the city hall is not open in the afternoon.

4. The council shall fix a day, and the hour thereof, when a public hearing will be had before it on the aforesaid apportionment of assessments, and shall cause the city clerk to give notice of such hearing by publication thereof in the official newspaper of the city once a week for at least three successive weeks.

5. Such hearing shall be held not less than twenty days from the first publication of the aforesaid notice, nor less than twenty days from the first day when the aforesaid report of apportionment of assessments shall have been filed in the

office of the city clerk.

6. The aforesaid notice shall show[:]

   (1) The day and hour of the hearing;

   (2) The hours and days aforesaid when the report of the apportionment of assessments is open for inspection;

   (3) In a general way the improvement for which the assessments have been levied;

   (4) Such other and further matter as the council may direct.

7. Such further and additional notice of the aforesaid hearing, than that contained in the aforesaid publication of the notice of such hearing--to the extent and in the manner and form as the council, by resolution, may direct--may be given to the respective record owners of the property affected by such assessments; but it shall not be obligatory to give any notice other than the notice by publication provided for in section four hereof.

8. Upon the aforesaid hearing, the council shall hear in person or by representatives, agents or attorneys, all persons and parties interested therein, desiring to be heard; such hearing shall be informal and shall not be governed by technical rules of evidence.

9. The council may adjourn the aforesaid hearing from time to time until in its judgment the same shall be fully concluded.

10. As the result of such hearing, the council may modify and correct the apportionment, may exclude from the assessment such lot or lots or parts thereof, which it may find shall not be assessed for the improvement in question, and may reduce or increase the assessment against any particular lot or lots.

11. Within fifteen days after the conclusion of the aforesaid hearing the council shall refile in the office of the city clerk, the aforesaid report of the apportionment of assessments, with such changes duly endorsed upon such report, if any such changes there be, which the council may have made therein pursuant to the provisions of section [subsection] ten hereof.

12. After such hearing, the council shall cause to be published in the official newspaper, in an issue published within twenty days after such hearing, any and all changes made, as the result of such hearing, in the report of apportionment in question.

(L.L. No. 4, 1924, § 1; L.L. No. 9, 1926, §§ 1--12; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L.L. No. 5, 1957, § 2; L.L. No. 3, 1984, § 1)

Sec. 80-a. Ordinance and notice to be published; hearing; action thereon.

The council shall cause the proposed ordinance for an improvement specified in the last preceding section to be published once a week for at least two successive weeks in the official newspaper with a notice that at the time and place to be stated therein, which shall not be less than fifteen days from the first publication thereof, it will meet to consider such ordinance, and that at such meeting all parties interested may be heard. The council at the time and place stated in such notice, or at such other time and

place as shall then be appointed for such purpose, shall hear all parties interested in the matter of such ordinance who shall desire to be heard, and by a majority of the members then present may adopt, modify or reject such proposed ordinance.

(L. 1922, Ch. 635, § 81-b; L.L. No. 5, 1957, § 2)

Sec. 81. Contract price, when due.

The contract price for any pavement constructed under the provisions of this act shall be due and payable within sixty days after the acceptance of the work.

(L. 1922, Ch. 635, § 81-d; L. 1943, Ch. 710, § 467; L. 1945, Ch. 339, § 1; L.L. No. 5, 1957, §§ 2, 3)

Sec. 82. Council may compel obedience to ordinances.

Whenever the owner or occupant of any lands shall omit to do any act required by ordinance to be done by him in front of or upon such land the council may cause such act to be done, and in addition to the fine may recover by action from such owner the cost of doing the act, or may assess the same upon such lands. If the land be low land or land under water the city may require the owner to fill and grade the same and upon his failure so to do the city may fill in such property and grade the same and may collect the cost of such work from the owner by action or may assess the same upon such lands. Such assessment may be collected in installments as any other assessment for local improvements levied by the city.

Sec. 83. Council may authorize rewards.

The council may, by vote of four-fifths of its members, authorize the mayor to offer a reward for the apprehension of the perpetrator of crime committed within the city, or an offender against an ordinance, to be paid upon the conviction of such person.

Sec. 84. Council may regulate weights and measures.

The council may regulate the weighing and measuring of goods, wares and commodities to be delivered to any purchaser or consumer in said city. For such purposes the council may annually designate a public scales and may provide by ordinance regulations for the weighing and measuring of such material, and fix fines and penalties for those violating such ordinances.

(L.L. No. 2, 1962, § 1)

Sec. 85. Ordinances and resolutions.

(a) In legislative sessions the council shall act by ordinance, resolution or motion.

(b) The ayes and nays shall be taken upon the passage of all local laws, ordinances, and resolutions and entered upon the journal of its proceedings. Upon the request of any member the ayes and nays shall be taken and recorded upon motion. Every member when present must vote and every ordinance passed by the city council shall require on final passage the affirmative vote of three-fifths of all members of the council, except as otherwise provided for in this act or the

Local Finance Law.

(c) The enacting clause of all ordinances passed by the council shall be in the following words: "Be it enacted by the council of the City of Long Beach."

(L. 1943, Ch. 710, § 468; L.L. No. 1, 1975, § 4)

Sec. 86. Reserved.

Editor's note: Section 5 of Local Law No. 1 of 1975 repealed § 86, pertaining to the amendment or repeal of ordinances.

Sec. 87. Record of ordinances.

A true copy of every ordinance when adopted shall be numbered and recorded in a book marked "Ordinance Record," and a certificate of adoption and publication shall be authenticated by the certificate of the publisher and by the signature of the president of the council.

(L.L. No. 5, 1943, § 8)

Sec. 88. Rules and regulations for the collection of garbage, ashes and refuse.

The council shall prescribe the general rules and regulations for the collection of garbage, ashes and refuse of the city, and contracts for the removal of the same shall be let as other contracts as herein provided. The said council shall authorize the construction of such incinerating plants as it deems necessary in such locations as it may determine to be proper and fit. It may authorize the purchase of scows, tugs and other boats, and trucks, horses, automobiles or auto trucks which it may deem necessary for the removal and disposal of such garbage, ashes and refuse from said city. No incinerating plant shall be located, nor any ash dump or landing place for the removal of ashes be established, except upon the affirmative vote of four-fifths of the council.

Sec. 89. Authority to dispose of real property.

The city council may, by resolution adopted by four (4) affirmative votes, sell, convey, exchange, grant or release any city real estate or any franchise belonging to or under the control of the city, apply such real property to a city use other than that for which it was acquired, or lease such property for a period not to exceed ninety-nine (99) years, at public or private sale, and grant rights or interests in, over, under and across any real property in which the city has any right, title or interest, for such consideration and upon such terms and conditions as the city council may deem proper, and with respect to the sale of surplus real property such terms and conditions may include purchase money mortgages, installment contract sales and any other means of selling and financing.

(L.L. No. 2, 1982, § 1)

Sec. 90. Accommodations for departments.

The council shall provide the different departments with suitable rooms and accommodations and shall define the jurisdiction of each department except as herein specifically provided.

Sec. 91. Council shall have powers of other boards.

The council has all the powers and is subject to all the liabilities and must perform all the duties of a separate board of water, light and sewer commissioners, if the council has not by ordinance established such separate boards; and until the council creates such boards, all provisions of law applying to either of such boards apply to the council.

Sec. 92. Banks of deposit.

The council shall designate banks for the deposit of all moneys received by the treasurer, and may require of any such bank security for the payment thereof, and may require a report by the cashier thereof to each regular meeting of the council of the amount on deposit to the credit of the treasurer.

Sec. 93. Auditing bills.

The council shall by ordinance provide for the proper auditing of all bills and claims against the city.

Sec. 94. Further powers of council.

The council shall have such further powers as provided in article six hereof and other articles and as provided by general laws for common councils of cities of the third class, not inconsistent herewith.

Sec. 95. Civil service commission.

The council shall establish civil service rules for the city departments and shall appoint civil service commissioners and may designate a hearing officer who shall have all powers pursuant to New York State Civil Service Law, Section 24. The civil service commission shall in the manner defined by the Civil Service Law and subject to and in pursuance of the provisions of such law and of all amendments that may from time to time be made to it, prescribe, amend and enforce rules for the classification of the officers, places and employment in the public service of the city, and for the appointments and promotions therein, and examinations therefor, and for the restriction and selection of laborers or employment therein.

(L.L. II, 10/19/2010)

Sec. 96. Council may establish board.

The council may establish a separate boards of fire, water, light, sewer, park, playground and boulevard, planning and zoning, recreation, public welfare or other boards or a board possessing the powers of two or more such boards and prescribe the

duties of such board or boards and provide for the appointment of commissioner thereof which may by ordinance authorize, empower and direct such board or boards to audit and order paid all bills and accounts incurred by such board or boards and which are payable out of the funds within the jurisdiction of such board or boards. The council may give names to the streets, parks and public places and numbers to the lots.

(L.L. No. III/2021, 2021)

Sec. 97. Parks.

The council shall:

1. Have authority to conduct at reasonable charges such facilities for the amusement, entertainment, refreshment or transportation of the public as are suitable to public parks, and may let privileges therefor, but such privileges shall be subject to supervision and direction of the council;

2. Plant, set out, or place and protect and care for flowers, vines, shrubs, and trees to adorn and improve the public squares, grounds, streets, avenues, alleys or spaces within the city, the cost of which or any part thereof to be provided for by general taxation or by special assessment in local assessment districts, or both, as may be prescribed by ordinance: Provided, that all original landscape work in parks and boulevards hereafter acquired shall be approved by the city plan commission.

Sec. 98. Beach Park.

1. The land owned with all the improvements thereon by the City of Long Beach extending from the northerly line of the Boardwalk as now or hereafter constructed or if extended east and west, southerly to the high water line of the Atlantic Ocean, and from the westerly to the easterly boundary of the said city, is hereby created a public park for the residents of the City of Long Beach and their invited guests.

2. The council of the City of Long Beach shall by ordinance provide for the supervision and maintenance of said public park by the city, including the furnishing of an adequate number of lifeguards and their necessary equipment, the cleaning of the beach front, the maintenance of such other facilities as the council may deem necessary, and the said ordinance shall prescribe a reasonable charge to be collected by the city from persons entering upon said public park.

(L.L. No. 4, 1936, § 1; L.L. No. IX, 1970, § 1)

Sec. 99. [Optional form of government.]

1. Chapter four hundred and forty-four of the laws of nineteen hundred and fourteen of the State of New York, entitled "An act to authorize a city of the second or third class to adopt a simplified form of government," and which is found in the "Unconsolidated Laws," and which act is known as "The Optional City Government Law," and each and every section and provision of said act, be and the same is and are in all respects, and in each and every respect, repealed and superseded by the within local law, in so far as same, or any part of same,

applies, and/or has any application to the City of Long Beach.

2. No section, and no provision, and no part of any section or provision, of chapter four hundred and forty-four of the laws of nineteen hundred and fourteen, of the State of New York, entitled "An act to authorize a city of the second or third class to adopt a simplified form of government," and which act is found in the "Unconsolidated Laws," and which act is known as "The Optional City Government Law," shall, in any respect, or to any extent, or in any wise, apply, or have any application to the City of Long Beach.

(L.L. No. 1, 1927, § 2; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1)

Sec. 99-a. [Publicity funds.]

1. The City of Long Beach shall establish a publicity fund in an amount not to exceed fifteen thousand dollars per annum for the purpose of advertising the advantages of the city, as a health resort, a summer resort, or otherwise, including the necessary and legitimate expense of securing the designation of the City of Long Beach as a place for holding conventions or meetings, of any organization or society, and for such other and additional purposes as may tend to promote the general commercial and industrial welfare of the City of Long Beach.

2. The council shall include in its budget each year, the amount necessary for the establishment of said publicity fund. Such fund shall be raised by taxation and shall be assessed, levied and collected in the same manner that other city taxes are assessed, levied and collected. Such fund shall be expended only for the purposes hereinbefore mentioned.

(L.L. No. 2, 1939, §§ 1, 2; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1)

ARTICLE 6. ASSESSMENT; LEVY; COLLECTION OF TAXES

Sec. 100. Fiscal year.

1. On and after the first day of July, 1975, the fiscal year of the City of Long Beach shall begin on the first day of July in each year and shall end with the next succeeding thirtieth day of June.

2. The fiscal year of the City of Long Beach, beginning on the first day of December, 1974, shall end with the thirtieth day of June, 1975. Whenever by law or by ordinance of the City of Long Beach some act is to be performed or time is to be measured by the fiscal year of the city, the said fiscal year as so abridged, shall be deemed to be a full year unless the contest clearly requires a contrary construction.

(L. 1922, Ch. 635, § 100; L.L. No. 8, 1970, § 3; L.L. No. 3, 1974, § 2)

Sec. 100-a. Submission of budget and budget message.

1. On or before the tenth day of April in each year beginning in 1975, the city manager shall submit to the city council a budget estimate for the ensuing fiscal year and an accompanying message. A copy of the submitted budget and budget message and all supporting schedules shall be filed in the office of the city clerk and be a public record open to the public for inspection no later than ten (10) days after the date of submission of the budget to the city council by the city manager.

2. On or before the tenth day of November, 1974, the city manager shall submit to the city council a seven (7) month budget for the period of December 1, 1974 to June 30, 1975, and an accompanying message. Said budget shall be prepared in accordance with the laws in effect prior to the effective date of this enactment.

(L.L. No. 8, 1970, § 3; L.L. No. 3, 1974, § 2)

Sec. 100-b. Budget message.

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the manager deems desirable.

(L. 1922, Ch. 635, § 100-b; L.L. No. 8, 1970, § 3; L.L. No. 3, 1974, § 3)

Sec. 101. Budget.

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the manager deems desirable or the council may require. In organizing the budget the manager shall utilize the uniform system of accounts for the city established

by the state comptroller. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service and contingency appropriations, for the ensuing fiscal year; shall show the amount of any cash deficit from current operations and the amount of any cash surplus which may be used as revenue for the next fiscal year and the amount estimated as necessary to provide a balanced cash budget; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure; and

(3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

No miscellaneous revenue, which shall include all revenues except real estate taxes, shall be included by the city manager as an anticipated revenue in the budget in an amount in excess of the amount actually realized in the first ten months of the current fiscal year plus that to be received in the remaining two months of the year estimated as accurately as may be, unless the city manager shall determine that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the budget year and shall certify such determination in writing to the council.

No miscellaneous revenue from a new source not previously stated in the budget shall be included unless the city manager shall determine that the facts clearly warrant the expectation that such revenue will be actually realized in cash during the budget year in the amount stated and shall certify such determination in writing to the council.

(L. 1922, Ch. 635, 101; L.L. No. 8, 1970, § 3; L.L. No. 9, 1975, § 1;L.L. No. I, 2014, § 1)

Sec. 101-a. Council on budget.

(a) *Notice and hearing.* The council shall publish in the official newspaper the general summary of the budget and a notice stating:

(1) The times and places where copies of the message and budget are available for inspection by the public; and

(2) The time and place, not less than two weeks after such publication, for a public hearing on the budget.

(b) Amendment before adoption. After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or

increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required, by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income. The council shall adopt the budget on or before the last day of May in each year beginning in 1975. Adoption of the budget shall constitute appropriation of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed. The council shall thereupon fix the tax levy and determine a tax rate which will produce the amount required to be raised by ad valorem tax on all taxable property in the city. Should the council fail to adopt the budget as hereinbefore required, the budget as submitted by the city manager shall be considered to have been adopted on the above-mentioned last day of May.

(L.L. No. 8, 1970, § 3; L.L. No. 3, 1974, § 2)

Sec. 101(b). Public records.

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the city.

(L.L. No. 8, 1970, § 3)

Sec. 101(c). Amendments after adoption.

(a) *Supplemental appropriations.* If during the fiscal year the manager certifies that there are available for appropriation total revenues in excess of those estimated in the budget, the council may make supplemental appropriations for the year up to the amount of such excess.

(b) *Emergency appropriations.* To meet a public emergency affecting life, health, property or the public peace, the council may make emergency ordinance authorizing the issuance of certificates of indebtedness as provided by the Local Finance Law.

(c) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may reduce one or more appropriations.

(d) *Transfer of appropriations.* At any time during the fiscal year the city council may by resolution transfer any or all of the unencumbered balance of appropriated funds from one department, office, agency or account to another, or from one program to another within the same department, office, agency or account; but any part or all of such unencumbered balance not exceeding fifteen hundred dollars ($1,500.00) may be transferred from one department, office, agency or account to another or from one program to another within the same department, office, agency or account with the written approval of the head of each such department, office or agency, the city manager, and the city comptroller, without any such resolution of the city council.

(e) *Limitations; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(L.L. No. 8, 1970, § 3; L.L. No. 1, 1985, § 1)

Sec. 101-d. Capital improvement program.

1. *Submission to council.* The manager shall prepare and submit to the council a five (5) year capital program at least three (3) months prior to the final date for submission of the annual budget.

2. *Contents.* The capital program shall include:

   (a) A clear general summary of its contents;

   (b) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for each improvement;

   (c) Cost estimates, method of financing and recommended time schedules for each improvement;

   (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

3. *Council action on capital program. Notice and hearing.* The council shall publish in one or more newspapers of general circulation in the city the general summary of the capital improvement program and a notice stating:

   (a) The time and places where copies of the capital program are available for inspection by the public.

   (b) The time and place, not less than two (2) weeks after such publication, for a public hearing on the capital program.

4. *Adoption.* The council, by resolution, shall adopt the capital program with or without amendment, after the public hearing, and on or before the fifteenth day of the eleventh month of the current fiscal year, and, in all events, before the adoption of the annual budget.

(L.L. No. 1, 1974, § 1)

Sec. 102. Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

(L. 1922, Ch. 635, § 102; L.L. No. 8, 1970, § 3)

Sec. 102-a. Administration of budget.

(1) *Work program and allotments.* At such time as the City Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. The City Manager may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to section 101(c).

(2) *Payments and obligations prohibited.* No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the city auditor first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. "Payments made" and "obligations incurred" shall include all promotions, salary increases, salary grade changes and the filling of positions and collective bargaining agreements. Such action shall be cause for removal of any officer or employee who knowingly authorized or made such payment or incurred such obligation, and such officer or employee shall also be personally and individually liable to the city for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, or to prevent the making of any contract or lease, providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance or resolution.

(3) *Unencumbered expenses.* Any expenses incurred and not encumbered in the fiscal year incurred shall not be paid in any subsequent fiscal year without specific approval by resolution passed by the common council of the City of Long Beach. The restriction contained in this subsection shall be in addition to and shall not in any way limit the provisions of section 102-a(2) of the Charter of the City of Long Beach.

(L.L. No. 8, 1970, § 3; L.L. No. 2, 1974, § 1; L.L. No. 10, 1975, § 1; L.L. No. III/2021, 2021)

Sec. 102-b. Levying of taxes and enforcement thereof.

1. The tax assessor shall follow the assessment procedure for the preparation and completion of the assessment roll for the purpose of levying a tax as provided by this local law on December 1, 1974, as presently set forth in the Charter of the City of Long Beach in sections 103, 104, 104-a, 105, 107, but not limited thereto, except that the assessment roll so prepared and taxes, water taxes and sewer rents so levied and imposed shall be for a seven (7) month period from December 1, 1974 to June 30, 1975, and all taxes, water taxes and sewer rents

for the aforesaid period of time and for the purpose of this local law shall be a lien on December 1, 1974, and the enforcement of said lien and the interests and penalties all shall be in accordance with the present Charter of the City of Long Beach.

2. The budget shall be submitted by the city manager and acted upon by the city council in accordance with the procedure provided for in this Charter in effect prior to the effective date of this enactment. The tax levy on December 1, 1974 shall be for a fiscal year commencing December 1, 1974 and ending June 30, 1975.

3. The taxes and rents levied on December 1, 1974 for the fiscal year beginning December 1, 1974 and ending June 30, 1975, shall become a lien on December 1, 1974, and shall be due and payable on that date. Said taxes and rents may be paid without penalty on or before December 31, 1974.

4. If such taxes and rents are not paid on or before the date herein provided it shall be the duty of the tax collector to charge and collect penalties calculated at the rate of one and one-half (1 1/2) per cent for the month next ensuing from the date such taxes and rents become a lien, and at the rate of one and one-half (1 1/2) per cent for each additional month thereafter calculated to the first day of the month following the date of payment on the amount of such taxes and rents that were unpaid as provided. Such penalties as are accrued shall be a lien on the properties affected.

(L.L. No. 4, 1974, § 1; L.L. No. III/2021, 2021)

Sec. 103. Tax district; tax assessor; board of assessors.

1. The city shall constitute a tax district. The tax assessor and the two (2) associate assessors shall constitute the board of assessors. The tax assessor shall in each year prepare an assessment roll of the property within the city, described by section, block and lot, as contained on tax maps prepared and adopted in accordance with Real Property Tax Law, Article 5. Such assessment roll shall contain the necessary columns required by the Real Property Tax Law and in addition thereto such columns as may be required for the entry of residential sanitation charges and for the relevy of arrears of water charges and sewer rents. The tax assessor shall, prior to the first day of December in each year, fix the values of all real property in the city and cause such values to be entered on the assessment rolls as herein provided. Within a reasonable time after December first in each year the board of assessors shall meet to review the values fixed by the tax assessors or may in the first instance or prior to the review thereof approve, increase or reduce such values, and shall by a majority vote fix and establish all tentative values and assessments prior to January first in each year. The taxable status date for each fiscal year shall be December first.

2. It shall be the duty of the building commissioner to furnish the tax assessors with monthly reports not later than the tenth of each succeeding month, indicating all building or alteration permits issued, the extent to which all buildings or alterations under construction have been completed and the certificates of occupancy issued during the previous month.

3. It shall be the duty of the commissioner of public works to furnish the tax

assessor on or before February twenty-eighth of each year with a report of all properties which are in arrears in the payment of water charges and/or sewer rents or charges for any period or periods wholly or partially within the preceding calendar year, which have not previously been reported to the tax assessor on any such prior report. Said report shall contain a description of each such property and shall state the name of the owner, the amounts unpaid, including interest and penalties, for water charges and/or sewer rents or charges for said period or periods. The tax assessor shall, in each year prior to the filing of the corrected assessment roll with the tax collector, enter such reported arrears of water charges and/or sewer rents or charges in the separate columns provided therefor on the said assessment roll. At any time prior to the filing of the corrected assessment roll with the tax collector in each year, the tax assessor may correct any errors in the relevy of such reported arrears of water charges and/or sewer rents or charges on the assessment roll and may add to the assessment roll any such water and sewer arrears that may have been omitted.

4. It shall be the duty of the city manager, or his designee, to furnish to the tax assessor in each year, prior to the filing of the corrected assessment roll with the tax collector, a report of all real properties which are subject to the imposition and payment of residential sanitation charges for the next ensuing fiscal year. Said report shall contain a description of each such parcel of real property and shall state the name of the reputed owner of each such parcel and the amount of the sanitation charge that will be due and payable thereon for such fiscal year. The tax assessor shall enter such residential sanitation charge each year in the separate column provided therefor on the said corrected assessment roll, and any errors therein and any omissions therefrom may be corrected at any time prior to the filing thereof with the tax collector.

5. The provisions of Real Property Tax Law, Section 1903, concerning homestead base proportions, are hereby adopted.

The homestead base proportions shall be established by resolution of the City Council of the City of Long Beach in accordance with the provisions of Article 19 of the Real Property Tax Law and the Rules of the State Board of Real Property Tax Services, and shall apply to taxes levied on the 1991-92 final assessment roll and to taxes levied on subsequent rolls until this local law shall be repealed.

(L. 1922, Ch. 635, § 103; L.L. No. 2, 1937, § 1; L.L. No. 2, 1941, §§ 1, 2; L.L. No. 4, 1944, §§ 1, 2; L.L. No. 1, 1946, § 1; L.L. No. 1, 1947, §§ 1, 2; L.L. No. 2, 1952, § 1; L.L. No. 5, 1974, § 1; L.L. No. 3, 1976, § 1; L.L. No. 7, 1976, § 1; L.L. No. 5, 1978, § 1; L.L. No. 2, 1984, §§ 1, 2; L.L. No. 2, 1990, § 1; L.L. No. III/2021, 2021)

Sec. 103-a. Real property of certain nonprofit organizations taxable.

Real property owned by a corporation or association which is not organized or conducted exclusively for religious, charitable, hospital, educational, moral or mental improvement of men, women or children or cemetery purposes, or for two (2) or more such purposes, but which is organized or conducted exclusively for bible, tract, missionary, infirmary, public playground, scientific, literary, bar association, medical society, library, patriotic purposes, for the enforcement of laws relating to children or animals, or for two (2) or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or

association, or by another such corporation or association as Subpart hereinafter provided, shall not be exempt from taxation.

(L.L. No. 4, 1977, § 1;; L.L. No. IV/18, § 1, 12-18-2018)

State law references: Non-profit organizations, Real Property Tax Law, § 420-b.

Sec. 103-aa. Real property of certain nonprofit organizations exempt (not taxable).

Real property owned by a corporation or association which is not organized or conducted exclusively for religious, charitable, hospital, educational, moral or mental improvement of men, women or children or cemetery purposes, or for two (2) or more such purposes, but which is organized or conducted exclusively for benevolent or historic purposes or for two (2) or more purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or association, or by another such corporation or association as hereinafter provided, shall be exempt from taxation.

(; L.L. No. IV/18, § 1, 12-18-2018)

State law references: Non-profit organizations, Real Property Tax Law, § 420-b.

Sec. 103-b. Reduction of exemption of certain real property from taxation.

1. Pursuant to Real Property Tax Law Section 485-b, real property constructed, altered, installed or improved subsequent to the first day of January, two thousand twenty three (2023) for the purpose of commercial, business or industrial activity shall be exempt from taxation to the extent hereinafter provided:

2 Such real property shall be exempt for a period of one year to the extent of fifty per centum of the increase in assessed value thereof attributable to such construction, alteration, installation or improvement and for an additional period of nine years provided, however, that the extent of such exemption shall be decreased by five per centum each year during such additional period of nine years and such exemption shall be computed with respect to the "exemption base." The exemption base shall be the increase in assessed value as determined in the initial year of such ten year period, following the filing of an original application, except as provided in subparagraphs (b) through (e).

(a) In any year in which a change in the level of assessment of fifteen percent or more is certified for a final assessment roll pursuant to the rules of the state board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the assessor receives the certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the assessor does not have custody of the roll when such certification is received, the assessor shall certify the recomputed

exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the assessor on the roll. The assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by Title Three of Article 5 of the New York State Real Property Tax Law for the correction of clerical errors

(b) The following table shall illustrate the computation of the tax exemption:

Year of exemption	Percentage of exemption
1	50
2	45
3	40
4	35
5	30
6	25
7	20
8	15
9	10
10	5

(c) No such exemption shall be granted unless:

1. such construction, alteration, installation or improvement was commenced subsequent to the first day of January, two thousand twenty three (2023);

2. the cost of such construction, alteration, installation or improvement exceeds the sum of ten thousand dollars;

3. such construction, alteration, installation or improvement is completed as may be evidenced by a certificate of occupancy or other appropriate documentation as provided by the owner

(d) For purposes of this section the terms construction, alteration, installation and improvement shall not include ordinary maintenance and repairs

(e) No such exemption shall be granted concurrent with or subsequent to any other real property tax exemption granted to the same improvements to real property, except, where during the period of such previous exemption, payments in lieu of taxes or other payments were made to the local government in an amount that would have been equal to or greater than the amount of real property taxes that would have been paid on such improvements had such property been granted an exemption pursuant to this section. In such case, an exemption shall be granted for a number of years equal to the ten year exemption granted pursuant to this section less the number of years the property would have been previously exempt from real property taxes

Sec. 103-b. Reduction of exemption of certain real property from taxation.

3. Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the New York State Office of Real Property Tax Services. Such application shall be filed with the Assessor on or before the December 1st (the taxable status date) and within one year from the date of completion of such construction, alteration, installation or improvement

4. If the assessor is satisfied that the applicant is entitled to an exemption pursuant to this section, he or she shall approve the application and such real property shall thereafter be exempt from taxation as herein provided commencing with the assessment roll prepared after the taxable status date referred to in subdivision three of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

5. The provisions of this section shall apply to real property used primarily for the buying, selling, storing or developing goods or services, the manufacture or assembly of goods or the processing of raw materials. This section shall not apply to property used primarily for the furnishing of dwelling space or accommodations to either residents or transients other than hotels or motels.

6. In the event that real property granted an exemption pursuant to this section ceases to be used primarily for eligible purposes, the exemption granted pursuant to this section shall cease.

(L.L. No. 2, 1985, § 1; L.L. No. IX/22, 10-06-2022)

Sec. 103-c. Real property alternative tax exemption for veterans.

1. Pursuant to the provisions of section 458-a of the Real Property Tax Law of the State of New York, as amended, and as therein provided, residential real property owned by a veteran, spouse of a veteran or the unremarried spouse of a veteran shall be exempt from city taxation to the extent set forth in the following schedule:

   War veteran - As defined by section 458-a(i)(e) of the Real Property Tax Law of the State of New York, fifteen percent of the assessed value of such property, provided that such exemption shall not exceed the product of $12,000 multiplied by the last state equalization rate for the city.

   Combat veteran - As defined by section 458-a(2)(b) of the Real Property Tax Law of the State of New York, an additional ten percent of the assessed value of such property, provided that such exemption shall not exceed the product of $8,000 multiplied by the last state equalization rate for the city.

   Disabled veteran - As defined by section 458-a(2)(c) of the Real Property Tax Law of the State of New York, an additional fifty percent of the veteran's disability rating, provided that such exemption shall not exceed the product of $40,000 multiplied by the last state equalization rate for the city.

2. The application for exemption must be made by the owner or all of the owners of the property on a form prescribed by the State Board of Real Property Tax Services.

3. Effective with assessment rolls prepared on the basis of taxable status dates occurring on or after the date of passage of this local law, that portion of a

cooperative apartment corporation held by an otherwise eligible veteran tenant/ stockholder is eligible for an exemption from real property taxes pursuant to the provisions of section 458-a of the Real Property Tax Law.

(L.L. No. II/98, § 1; L.L. No. III/2021, 2021)

Sec. 103-d. Preparation of Assessment Roll.

Income and Expense Statements.

A. *Definition.* The term "income producing property" as used in this ordinance shall mean property owned for the purpose of securing an income from the property itself. Income producing property shall include, but shall not be limited to, the following types of property:

1. apartment houses (not including residential property containing three or fewer dwelling units);
2. commercial and professional condominiums;
3. department stores;
4. factories and industrial buildings;
5. garages, gasoline stations and parking lots;
6. hospitals;
7. hotels;
8. lofts;
9. mixed-use buildings of all types (e.g., buildings which contain both commercial and residential space, office and garage space, hotel and restaurant space);
10. nursing homes and health-related facilities;
11. office buildings;
12. partially tax-exempt properties;
13. places of public assembly;
14. privately owned educational structures;
15. rented commercial and/or professional space in residential condominium or cooperative buildings;
16. restaurants;
17. retail stores;
18. theaters (movie or stage);
19. transportation facilities;
20. vacant land (when income is derived from the land, e.g., unimproved land used as a parking lot); and
21. warehouse.

B. *Filing requirements for Income and Itemized Expense Statements, rent rolls and leases.* Where real property is income producing property, the owner shall be required to submit annually to the City Assessor, not later than the first day of September, 2002 and not later than the first day of September in all succeeding years, a statement of all income derived from and, where applicable, rent rolls and/or leases and all itemized expenses attributed to the operation of such property as follows:

1. Where the owner's books and records are maintained on a calendar year basis, the statement shall reflect the calendar year preceding the date of the statement.

2. Where the owner's books and records reflecting the operation of the property are maintained on a fiscal year basis for federal income tax purposes, the statement shall be for the last fiscal year concluded as of the first day of January preceding the date the statement.

3. Notwithstanding the provisions of paragraphs one and two of this section, where the owner of the real property has not operated the property and is without knowledge of the income and expense of the property for a consecutive twelve-month period concluded as of the first day of January preceding the date the statement shall be filed, then the statement shall be for the period of ownership.

4. Owners of income producing property shall file an income and expense statement which indicates whether they maintain their books and records using the cash or accrual method of accounting.

5. The Assessor may for good cause shown extend the time for filing an income and expense statement for a period not to exceed thirty days.

C. *Declaration.* Such statement shall contain the following declaration: "I certify that all the information contained in this statement is true and correct to the best of my knowledge and belief. I understand that the willful making of any false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and will render this statement null and void."

D. *Forms.* The form on which such statement shall be submitted shall be prepared by the City Assessor and copies of such form shall be made available at the Department of Assessment in the City of Long Beach.

E. *Failure to file Income and Itemized Expense statement and, where applicable, rent rolls and/or leases; penalties; enforcement procedures.*

1. In the event that an owner of income producing property fails to file an income and expense statement within the time prescribed in subsection B above or in the event of an extension, the extended due date, the City Tax Assessor shall immediately serve upon such owner a Notice of Non-Compliance and such owner shall be subject to a penalty in an amount not to exceed four (4%) percent of the final assessed valuation of the property for the tax

year in which such statement was to be filed. Owners of income producing property who have not obtained an extension of time from the City Assessor shall be liable for each relevant year for a penalty equal to four (4%) percent of the assessed valuation for income and expense statements filed after September 1st.

2. In the event an income and expense statement and, where applicable, rent rolls and/or leases required under the provisions of this section has not been timely filed, the City Assessor may compel by subpoena the production of the books and records of the owner relevant to the income and expense of the property and may also make application to any court of competent jurisdiction for an order compelling the owner to furnish the required income and expense statement and, where applicable, rent rolls and/or leases and the books and records to the income and expenses of the property. In the event such an order is issued, the City Assessor shall be entitled to recover from the owner all costs and expenses, including attorney's fees, incurred by the City in connection with the proceeding to obtain and enforce the order.

3. If the owner of an income producing property disagrees with the Notice of Non-Compliance of the Tax Assessor stating that he/she has not complied with the legal requirements of Local Law II with respect to providing income and expense statements, rent rolls or any other documents provided for in this section, such owner may request a hearing before an independent hearing officer within thirty (30) days of the date of the Notice of Non-Compliance. The sole purpose of this hearing shall be to determine the issue of compliance. Failure to request a hearing within said thirty (30) day period shall constitute a waiver of such hearing by the property owner. Should it be determined by a hearing officer after a hearing that said property owner has in fact failed to comply with the requirements of Local Law II, the Tax Assessor shall have the right to immediately pursue any and all remedies available pursuant to this section to secure said compliance including but not limited to the re-levy of any determined penalty as a lien on the property, on the following year's tax bill.

F. *Confidentiality; Disclosure of information; penalties.*

1. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the City Assessor or any official or employee of the City, any member of the Board of Assessment Review, any person engaged or retained by the City, the Assessor, or the Board of Assessment Review on an independent contract basis or any person who, pursuant to this section, is permitted to inspect any income and expense statement or to whom a copy, any abstract or a portion of any such statement is furnished to divulge or make known to third parties the amount of income and/or expense or any particulars set forth or disclosed in any such statement required under this section.

2. The officers charged with custody of such statements shall not be required to produce any income and expense statement or evidence of anything contained in said statement in any action or proceeding in any court, except on behalf of the City or pursuant to a Court order. Nothing herein shall be construed to prohibit the delivery to an owner or his or her duly authorized representative of a certified copy of any statement filed by such owner pursuant to this section or to prohibit the publication of the statistics without the identification of particular statements. The City shall also be free to provide its representatives and/or other professionals retained by the City or the Board of Assessment Review with respect to a proceeding to review the assessment of the property at issue for use solely with respect to the review of said assessment and for no other purpose. Any violation of the provisions of this section shall be punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender be an officer or employee of the City or a member of the Board of Assessment Review, the offender shall be dismissed from office.

G. *Rules and regulations.* The City Assessor shall be authorized to promulgate rules and regulations necessary to effectuate the purposes of this Section subject to approval and modification by the City Council.

H. *Severability.* The provisions of this section shall be severable and if any phase, clause, sentence, paragraph or subsection of this section or the applicability there to any person or circumstance shall be held invalid, the remainder of this Section and the application thereof shall not be affected thereby.

(L.L. No. II, 2002, § 1; L.L. No. I, 2005, § 1)

Sec. 103-e. Compliance Hearings.

Owners of income producing property who are served with a Notice of Non-Compliance pursuant to Section 103-d of this Article shall have thirty (30) days from the date of such notice to request a hearing before an independent hearing officer, by filing a petition for a hearing with the Tax Assessor on a form provided by that office. Failure to file a petition as provided for herein shall constitute a waiver and subject the owner to such penalties as deemed appropriate as provided in Section 103-d.

(L.L. No. I, 2005, § 1)

Sec. 103-f. Where to file Petitions.

Petitions shall be filed in the Office of the Tax Assessor, 1 West Chester Street, Long Beach, New York.

(L.L. No. I, 2005, § 1)

Sec. 103-g. Designation of the Hearing Officer.

The City Manager shall designate a hearing officer to hear petitions pursuant to

these regulations.

(L.L. No. I, 2005, § 1)

Sec. 103-h. Eligible Petitioners.

Only the record owner or his/her duly authorized representative may file as a petitioner for hearing.

(L.L. No. I, 2005, § 1)

Sec. 103-i. Subpoena power.

At any time during the hearing, the hearing officer may by subpoena compel the attendance of witnesses and/or the production of books, papers and any other documents required to be kept by statute or regulation. Either party to the hearing may request a subpoena by submitting a proposed subpoena directly to the hearing officer. If the request is approved, service of the subpoena shall be the responsibility of the requesting party. An attorney may subpoena a witness or the production of documents as provided by Article 23 of the Civil Practice Law and Rules.

(L.L. No. I, 2005, § 1)

Sec. 103-j. Hearing Officer.

A. The hearing shall be conducted by a hearing officer, who shall be authorized to:

1. administer oaths and affirmations;
2. regulate the course of the hearing, set the time and place for continuing the hearing, and fix the time for filing of legal briefs, memoranda and other documents;
3. rule upon offers of proof and receive relevant evidence;
4. require the parties at any time during the hearing to state their respective positions in support of any issues under consideration in the case;
5. question any party or witness for the purpose of clarifying the record;
6. take any other action for a speedy and expeditious hearing.

B. The hearing officer may waive the appearance of the parties or their representatives, if any, for the submission of evidence where sufficient facts have been admitted, stipulated or included in the record in some way, and the parties consent in writing to have the controversy heard or submitted without need for their appearance at an oral hearing. The parties may submit legal memoranda, additional documents or other material in support of their positions to the hearing officer within a reasonable time as agreed upon by the parties, subject to the approval of the hearing officer. The hearing officer may, however, request additional memoranda or evidence from the parties where the hearing officer deems the stipulated submission insufficient for a decision to be rendered.

C. The hearing officer may require that the parties report on the number of witnesses each party expects to call at the hearing, plus an estimate of the

amount of time the parties expect will be required for the presentation of their direct case. The information received in response to such request shall be used for hearing calendaring purposes only. No party's hearing shall be limited to the estimated time reported, or to the number of witnesses listed in the report.

(L.L. No. I, 2005, § 1)

Sec. 103-k. Hearing Schedule.

A. The hearing shall be scheduled as soon as is practicable. The parties shall be given notice of the hearing date no fewer than twenty (20) days prior to such date. The notice shall include the time, place and nature of the hearing.

B. No request for postponement of the hearing date will be considered unless a written application setting forth good cause for the postponement is received by the hearing officer within ten (10) calendar days after mailing of the hearing notice. In the event of an emergency, however, a postponement may be considered on less notice than provided herein. A postponement may be granted only in writing by the hearing officer.

(L.L. No. I, 2005, § 1)

Sec. 103-l. Ex Parte Communications.

There shall be no ex parte communication with respect to the merits of any pending case between any party and the hearing officer.

(L.L. No. I, 2005, § 1)

Sec. 103-m. Burden of Proof.

The petitioner shall have the burden of establishing each fact relevant to a determination of the matters reviewable under this article.

(L.L. No. I, 2005, § 1)

Sec. 103-n. Evidence.

A. At the hearing, the parties shall have the right to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses.

B. No decision or determination shall be made except upon consideration of the record as a whole and as supported by the evidence. Technical rules of evidence may be waived to the extent permitted by the decisions of the courts of this state, provided the evidence offered is relevant and material to the issues. However, effect shall be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record.

(L.L. No. I, 2005, § 1)

Sec. 103-o. Failure to Appear.

A default shall be entered upon the failure of the petitioner to appear at a hearing

or at any adjourned date thereof, provided the petitioner has been given notice of the hearing date, and no written postponement has been granted pursuant to section 103-k of this Article. In the event of a default, the hearing shall be concluded and a final determination shall be issued pursuant to section 103-d of this Article based on the record, if any, previously made.

(L.L. No. I, 2005, § 1)

Sec. 103-p. Hearing Record.

Hearings shall be transcribed verbatim or recorded by electronic recording devices. A copy of the transcript or electronic recording may be purchased at such rates as may be fixed by the City Comptroller. If any party deems the hearing record to be inaccurate in any material respect, that party shall promptly notify the other parties and the hearing officer not later than five (5) calendar days from receipt of the hearing record, specifying the portions of the record believed to be inaccurate.

(L.L. No. I, 2005, § 1)

Sec. 103-q. Final Determination.

A. Upon completion of the hearing, the hearing officer shall transmit to the Tax Assessor the entire record, including the stenographic transcript or electronic recording of the hearing, exhibits offered in evidence and any briefs or legal memoranda filed by the parties, together with the findings of fact and conclusions of law. The Tax Assessor shall thereafter mail the final Determination including the dollar amount of any penalty to be imposed as provided by Section 103 to the petitioner and to the petitioner's representative.

B. All final decisions rendered by the Tax Assessor are reviewable under Article 78 of the Civil Practice Law and Rules.

(L.L. No. I, 2005, § 1)

Sec. 104. Completion of assessment roll; notice of review.

After the board of assessors shall have fixed and established the values and assessments pursuant to section one hundred three hereof, they shall cause to be published in the official newspaper of the city, in at least two issues, a notice that the tentative assessment roll has been completed and is on file in the office of the tax assessor and may be examined by all persons interested during the hours between nine a.m. and four p.m., on any day except Saturdays and Sundays and holidays, from January first until the third Tuesday in January, and also that the board of assessors will sit as a board of review to hear complaints of aggrievement against any value or assessment on the third Tuesday of the month of January at such time and place as specified in such notice.

(L. 1922, Ch. 635, § 104; L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 2; L.L. No. 2, 1952, § 2; L.L. No. 2, 1965, § 1; L.L. No. 5, 1974, § 1; L.L. No. 5, 1978, § 2)

Sec. 104-a. Information to be furnished.

Between the dates of January first and the third Tuesday in January, any person,

firm or corporation or his or its agents, having an interest in the property assessed upon the assessment roll claiming to be aggrieved, must file with the board of assessors a sworn statement setting forth such information as shall be required by the board of assessors concerning the said property for the period commencing December first preceding, and ending December first of the taxable year on forms which shall be furnished without charge by the board of assessors upon request.

(L. 1935, Ch. 870, § 3; L.L. No. 2, 1965, § 2; L.L. No. 5, 1974, § 1; L.L. No. 5, 1978, § 3)

Sec. 104-b. Exemption for persons who are sixty-five years of age or over.

1. Pursuant to the provisions of Section 467 of the Real Property Tax Law of the State of New York, as amended and as therein provided, real property owned by one (1) or more persons, each of whom is sixty-five (65) years of age or over, or real property owned by spouses, one (1) of whom is sixty-five (65) years of age or over, shall be exempt from taxation, which exemption shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed, to the extent set forth in the following schedule:

TABLE INSET:

Annual Income	Percentage Assessed Valuation Exemption From Taxation
Less Than $35,000	50
$35,000 but less than $36,000	45
$36,000 but less than $37,000	40
$37,000 but less than $38,000	35
$38,000 but less than $38,900	30
$38,900 but less than $39,800	25
$39,800 but less than $40,700	20
$40,700 but less than $41,600	15
$41,600 but less than $42,500	10
$42,500 but less than $43,400	5

2. No exemption shall be granted if the income of the owner or the combined income of the owners of the property exceeds the sum of forty-three thousand three hundred ninety-nine dollars and ninety-nine cents ($43,399.99). The income of the owner or the combined income of the owners of the property shall be calculated in accordance with Section 467 of the Real Property Tax Law of the State of New York, and any such income shall be offset by the owners' combined medical and prescription drug expenses actually paid by the owner or owners and not reimbursed or paid for by insurance or other non-owner.

3. Application for such exemption must be made by the owner or all of the owners of the property annually on forms to be furnished by the tax assessor of the City of Long Beach, and such owner or owners shall furnish the information required by such forms and shall execute such forms in the manner prescribed in such forms, and shall file such forms in said assessor's office annually, on or during the ninety (90) days immediately preceding the appropriate taxable status date.

4. For the purpose of this section, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides and which is represented by his/her share or shares of stock in such corporation as determined by its or their proportional relationship to the

total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder and shall be subject to exemption from taxation, to the extent such tenant-stockholder is eligible and qualifies in accordance with and pursuant to the provisions of § 467, as may be applicable, of the Real Property Tax Law .

5. Homeowners who did not file a renewal application on or before Taxable Status Date may submit a written request to the Assessor asking the Assessor to extend the filing deadline and to grant the exemption. The homeowner must be able to show good cause for the failure to timely file the renewal application, and must submit the written request to the Assessor no later than the last day for paying taxes without incurring interest or penalty. The request must contain an explanation of why the deadline was missed and a renewal application that reflects the facts and circumstances as they existed on Taxable Status Date. The Assessor may (at his/her discretion) grant or deny this request, and must notify the owner of the determination. Whenever the request is denied, the Assessor must set forth the reason(s) for the denial in the determination. Any determination rendered pursuant to this section shall be final and binding upon the owner, and not subject to further review.

6. Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than one hundred dollars ($100.00) and shall disqualify the applicant or applicants from further exemption for a period of five (5) years.

(L.L. No. 1, 1966, § 1; L.L. No. 1, 1973, § 1; L.L. No. 5, 1975, § 1; L.L. No. 1, 1983, §§ 1, 2; L.L. No. 1993, §§ 1, 2; L.L. No. I/06, § 1, 9-5-06; L.L. No. IV/18, 12-18-2018; L.L. No. VI/22, 10-06-2022)

Sec. 104-c. Exemption of capital improvements.

1. For purposes of this chapter the following definitions shall apply:

   (a) *Residential building:* Any building or structure designed and occupied exclusively for residential purposes by not more than two (2) families.

   (b) *Board:* Shall mean the board of assessors of the City of Long Beach.

   (c) *Assessor:* Shall mean the Tax Assessor of the City of Long Beach.

2. Residential buildings reconstructed, altered or improved for residential purposes shall be exempt from taxation and special ad valorem levies to the extent provided hereinafter.

3. For the purposes of this chapter, the terms "reconstruction," "alteration" and "improvement" shall not include ordinary maintenance and repairs.

4. *Amount of exemption:*

   (a) Such buildings shall be exempt for a period of one (1) year to the extent of one hundred (100) percent of the increase in assessed value thereof attributable to such reconstruction, alteration or improvement. Thereafter, for an additional period of seven (7) years the extent of such exemption shall be decreased by twelve and one-half (12 1/2) percent of the initial exemption each year during such additional period.

(b) Such exemption shall be limited to eighty thousand dollars ($80,000.00) in increased market value of the property attributable to such reconstruction, alteration or improvement. Any increase in market value greater than eighty thousand dollars ($80,000.00) shall not be eligible for the exemption.

5. No exemption shall be granted for reconstruction, alterations or improvements unless:

(a) Such reconstruction, alteration or improvement was commenced subsequent to the effective date of this section; and

(b) The value of such reconstruction, alteration or improvement exceeds three thousand dollars ($3,000.00); and

(c) The greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five (5) years old.

6. *Application for exemption:*

(a) Such exemption shall be granted only upon application by the owner of such building on a form prescribed by the New York State Board of Equalization and Assessment. The original of the application shall be filed with the assessor on or before December 1st which is the taxable status date.

(b) If the assessor is satisfied that the applicant is entitled to an exemption pursuant to this chapter, he/she shall approve the application and such buildings shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared after the taxable status date referred to in subdivision (a) of this section.

(c) The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the portion of the assessment roll provided for property exempt from taxation.

7. In the event that a building granted an exemption pursuant to this chapter ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this chapter shall cease.

(L.L. No. 2, 1993, § 1; L.L. No. 3, 1993, § 1)

Sec. 104-d. Exemptions for persons with disabilities and limited incomes.

1. Pursuant to the provisions of Section 459-c of the Real Property Tax Law of the State of New York, as amended and as therein provided, adopted herein, real property owned by one or more persons with disabilities, or real property owned by a husband, wife or both, or by siblings, at least one of whom has a disability, or real property owned by one or more persons, some of whom qualify under this section and others of whom qualify under Section 467 of the Real Property Tax Law of the State of New York and Section 104-b of the Charter of the City of Long Beach, and whose income as hereafter defined is limited by reason of such disability, shall be exempt from taxation to the extent of fifty percent (50%) of the assessed valuation thereof, as here and after provided.

2. The income of the owner or the combined incomes of the owners of the property for the income tax year immediately preceding the date of making application for exemption shall be as follows: no more than twenty-seven thousand dollars ($27,000.00) for the income tax year ending December 31, 2007; no more than twenty-eight thousand dollars ($28,000.00) for the income tax year ending December 31, 2008; and no more than twenty-nine thousand dollars ($29,000.00) for the income tax year ending December 31, 2009.; and commencing with the income tax year ending on December 31, 2021, the combined income of the owners shall be no more than thirty-seven thousand dollars ($37,000.00). All medical and prescription expenses which are not reimbursed or paid by insurance shall be excluded from the computation of an applicant's income.

3. Application for such exemption must be made by the owner or all of the owners of the property annually on forms to be furnished by the tax assessor of the City of Long Beach, and such owner or owners shall furnish the information required by such forms and shall execute such forms in the manner prescribed in such forms, and shall file such forms in said assessor's office annually, on or during the ninety (90) days immediately preceding the appropriate taxable status date.

4. For the purpose of this section, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides and which is represented by his/her share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder and shall be subject to exemption from taxation, to the extent such tenant-stockholder is eligible and qualifies in accordance with and pursuant to the provisions of § 459-c, as may be applicable, of the Real Property Tax Law.

5. Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than one hundred dollars ($100.00) and shall disqualify the applicant or applicants from further exemption for a period of five (5) years.

(L.L. No. 1-07, § 1, 11-7-07; L.L. No. IV/18, 12-18-2018; L.L. No. VII/22, 10-06-2022; L.L. No. XIII/22, 11-1-2022)

Sec. 104-e. Exemptions for persons who rendered active military service to the United States during the Cold War.

1. Pursuant to the provisions of Section 458-b of the Real Property Tax Law of the State of New York, as amended and as therein provided, adopted herein, real property owned by persons including real property owned by a cooperative corporation, who rendered active military service to the United States during the Cold War (any person who served on active duty for a period of more than three hundred sixty-five days in the United States Armed Forces during the period from September 2, 1945 to December 26, 1991, and was discharged or released therefrom under honorable conditions) shall be exempt from taxation to the extent of 10 percent of the assessed value of such property provided however that such exemption shall not exceed four thousand dollars ($4,000.00) or the product of four thousand dollars ($4,000.00) multiplied by the latest class ratio,

whichever is less.

2. Additional exemption. In addition to the exemption provided by subdivision 1., where the Cold War veteran received a compensation rating from the United States department of defense because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by fifty percent of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed twenty thousand dollars ($20,000.00), or the product of twenty thousand dollars ($20,000.00) multiplied by the latest class ratio, whichever is less.

3. Limitation.

   (1) The exemption from taxation provided by this section shall not be applicable to taxes levied for school purposes or special district, advoleram taxes.

   (2) If a Cold War veteran receives the exemption under New York State Real Property Tax Law section 458 or 458-a, the Cold War veteran shall not be eligible to receive the exemption under this section.

   (3) The exemptions authorized by this section shall apply to qualifying owners of qualifying real property for as long as they remain qualifying owners.

4. Application for exemption shall be made by the owner, or all of the owners of the property on a form prescribed by the City's Department of Assessment. The owner or owners shall file the completed form in the City Assessor's Office on or before the first appropriated taxable status date. Any applicant convicted of willfully making any false statement in the application for such exemption shall be subject to the penalties prescribed in the penal law.

(L.L. No. 3/08, 2008, § 1; L.L. No. 3/18, 2018, § 1; L.L. No. III/2021, 2021)

Sec. 104-f. Opt-Out of Real Property Tax Law §487 Exemption.

The tax exemption made available by Real Property Tax Law §487 shall not be applicable within the boundaries of the City of Long Beach with respect to any solar or wind energy system, farm waste energy system, micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, electric energy storage equipment and electric energy storage system, or fuel-flexible linear generator electric generating system, constructed subsequent to the passage of this Local Law, or any other energy system eligible for the real property tax exemption pursuant to §487 of the Real Property Tax Law.

(L.L. No. VIII/22, 10-06-2022)

Sec. 105. Review of assessment.

The board of assessors shall constitute a board of review. Such board shall meet at a time and place specified in the notice mentioned in the preceding section and review the assessment. Its sessions shall not aggregate more than seven days nor be continued beyond the first day of March. During the time the assessors review any tax

assessment they shall have power to add or insert in such assessment roll any property liable to assessment and the valuation thereof which may have been omitted from such roll upon giving notice to the owner of such property or to his agent at least two days prior to adding the same. Except as modified by this act, the board of review shall have all the powers given by the Real Property Tax Law to assessors sitting to hear complaints in relation to assessments, and the proceedings in relation thereto shall be the same as provided by the Real Property Tax Law. Any person assessed upon the assessment roll claiming to be aggrieved by any assessment for property therein may review the same in the manner provided by the Real Property Tax Law. On or before the first day of April the corrected assessment roll together with the minutes of the board shall be filed in the office of the tax assessor.

(L. 1922, Ch. 635, § 105; L. 1933, Ch. 594, § 1; L.L. No. 2, 1952, § 3; L.L. No. 5, 1974, § 1)

Sec. 105-a. Reserved.

Editor's note: L.L. No. 3, 1976, § 2, repealed §§ 105-a, 106 which had pertained to notice of filing and assessment for water taxes and sewer rents. Said sections had been derived from L. 1922, Ch. 635, § 106; L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, §§ 4, 5; L.L. No. 1, 1936, § 1; L.L. No. 2, 1952, §§ 4, 5; L.L. No. 5, 1974, § 1.

Sec. 2 of L.L. No. 3, 1976, added a new § 106 as herein set out.

Sec. 106. Notice of filing.

The aforesaid corrected assessment roll, together with the minutes of the board, shall remain open for inspection in the office of the tax assessor from the first day of April until the thirtieth day of April thereafter, and the said tax assessor shall upon the filing thereof give notice by publication once in the official newspaper between March fifteenth and April first that such corrected assessment roll and the minutes of the board of assessors have been filed in the said office of the tax assessor and that all persons interested therein may examine the same at the tax assessor's office. Any person, firm or corporation so assessed upon the assessment roll claiming to be aggrieved by any assessment of property therein may review the same in the manner provided by the Real Property Tax Law. The tax assessor shall file such corrected assessment roll with the tax collector.

(L. 1922, Ch. 635, § 106; L.L. No. 3, 1976, § 2; L.L. No. 5, 1978, § 4)

Note: See editor's note to § 105-a.

Sec. 107. Extension of tax upon the assessment roll; warrant to tax collector.

After the fixing of the tax rate by the city council as provided in section 101-a of this article, as amended, the tax collector shall immediately extend and apportion on the assessment roll the tax levy, as provided by this article, the residential sanitary charges and the reported arrears of water charges and/or sewer rents and charges, against each property shown thereon. He shall total the real estate taxes, the residential sanitation charges, and the arrears of water charges and/or sewer rents and charges so extended and apportioned, and certify the total to the city manager, who shall thereupon issue a

warrant to the tax collector commanding him to collect the taxes and the residential sanitation charges and the arrears of water charges and/or sewer rents and charges appearing on the assessment rolls in the manner provided by this article. Said warrant shall be signed by the city manager, attested to by the city clerk and the seal of the city shall be affixed thereto. Within a week after the receipt of the warrant the tax collector shall publish a notice in the official newspaper of the city that all taxes and residential sanitation charges and arrears of water charges and/or sewer rents and charges are due and payable at such times as provided by this article, and if not paid on or before the time or times designated for payments, shall bear interest or penalties as provided by this article.

(L.L. No. 7, 1976, § 2; L.L. No. 2, 1984, § 3)

Editor's note: L.L. No. 7, 1976, § 2 amended § 107 in its entirety. Former § 107 pertained to extension of tax upon assessment roll and had been derived from L. 1922, Ch. 635, § 107; L.L. No. 5, 1924, § 1; L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 6; L.L. No. 2, 1936, § 1; L.L. No. 8, 1946, §§ 1--3; L.L. No. 2, 1952, § 6; L.L. No. 5, 1974, § 1; L.L. No. 3, 1976, § 3.

Sec. 107-a. Taxes and sanitation charges and relevied water charges and/or sewer rents to be liens on property; dates when payments are due; penalties for nonpayment.

1. Whenever the total annual city tax on any parcel of real property shall be equal to or shall exceed six thousand dollars ($6,000.00) for any fiscal year, the entire amount of said total sum shall become a lien on such parcel of real property on the first day of July in the fiscal year for which such taxes were levied and said total sum shall be due and payable on that day, but may be paid without any interest or penalty on or before the thirty-first day of July next succeeding the said due date.

2. Whenever the total annual city tax on any parcel of real property shall be less than six thousand dollars ($6,000.00) for any fiscal year, the first one-half of said total sum shall become a lien on such parcel of real property on the first day of July in the fiscal year for which such taxes were levied and shall be due and payable on that day, but may be paid without any interest or penalty on or before the thirty-first day of July next succeeding the said due date. The second one-half of said total sum shall become a lien on such parcel of real property on the first day of January in the fiscal year for which such taxes were levied and shall be due and payable on that day, but may be paid without any interest or penalty on or before the thirty-first day of January next succeeding the said due date. As used in this subsection, the term "parcel of real property" shall be deemed and considered to include any parcel of real property held in cooperative form of ownership on which the total annual city tax shall be less than six thousand dollars ($6,000.00) per dwelling unit, computed by dividing the number of dwelling units in such parcel of real property into the total annual city tax on such parcel.

3. Sanitation charges and relevied arrears of water and/or sewer charges shall become a lien on the real property affected thereby on the first day of July in the fiscal year for which such sanitation charges are entered and such arrears of water and/or sewer charges are relevied and shall be due and payable on that

day, but may be paid without any interest or penalty on or before the thirty-first day of July next succeeding the said due date.

4. If any such taxes, sanitation charges and/or relevied arrears of water and/or sewer charges are not paid on or before the respective dates in this section provided, it shall be the duty of the tax collector to charge and collect interest thereon calculated at the rate of one and one-half (1 1/2) percent for the month next ensuing from the date such taxes and/or sanitation charges and/or relevied water and/or sewer charges became a lien, and at the rate of one and one-half (1 1/2) percent for each additional month thereafter accumulated to the last day of the month in which the payment of the amount of such taxes, sanitation charges and/or relevied arrears of water and/or sewer charges that were unpaid as in this section provided. Such interest accrued as herein calculated and approved shall be a lien on such parcel of real estate. Whenever the last day to pay such taxes and/or sanitation charges and/or relevied arrears of water and/or sewer charges without any interest or penalty as hereinbefore provided, falls on a Saturday, Sunday or legal holiday, such taxes and/or sanitation charges and/or relevied arrears of water and/or sewer charges may be paid without any interest or penalty not later than the next business day.

(L.L. No. 7, 1976, § 3; L.L. No. 1, 1984, § 1; L.L. No. 2, 1984, § 4; L.L. No. 2, 1992, § 1; L.L. No. 3, 1992, § 1; L.L. No.I/00, 2000, § 1)

Editor's note: L.L. No. 7, 1976, § 3 amended § 107-a in its entirety. Former § 107-a pertained to taxes, water rents, and sewer rents being liens on property. Said former section had been derived from L. 1928, Ch. 540, § 1; L.L. No. 1, 1925, § 1; L.L. No. 8, 1926, § 1; L.L. No. 1, 1929, § 1; L.L. No. 1, 1934, § 1; L.L. No. 1, 1945, § 1; L.L. No. 9, 1946, § 1; L.L. No. 2, 1952, § 7; L.L. No. 1, 1971, § 1; L.L. No. 3, 1971, § 1; L.L. No. 5, 1974, § 1; L.L. No. 7, 1975, § 1; L.L. No. 3, 1976, § 4.

Sec. 108. City to be receiving agent for state and county taxes.

All state and county taxes levied upon property in the city shall be paid to the treasurer of the City of Long Beach as agent of the County of Nassau for receiving such payment. The lien of all such state and county taxes shall belong to the county. All interest charges on account of state and county taxes paid to the city treasurer shall be deemed to be paid to him as agent for the county and shall be paid over to the county treasurer at the same time as the taxes to which they have been added as herein provided. All payments of state and county taxes to the city treasurer shall be kept in a separate fund and the amount of each payment or installment shall be paid over to the county treasurer by the city treasurer within fifteen days after the end of the calendar month in which such payment or installment is received.

(L. 1922, Ch. 635, § 108; L. 1933, Ch. 594, § 1)

Sec. 109. Recording tax payments; tax receipts.

Upon receiving payment of any tax, residential sanitation charge and/or relevied water and/or sewer charge, the tax collector shall enter in a column on the assessment roll, opposite the description of the property, the fact of payment and the amount and date thereof; or with the approval of the city manager, the tax collector may install a card system and/or computer for the recording of the payment of taxes and/or residential

sanitation charges and/or relevied water and/or sewer charges. Such card and/or computer system shall contain at least one entry for each parcel of property subject to tax and/or residential sanitation charges and/or relevied water and/or sewer charges and it or such computer shall contain a description of each such parcel of property in the same manner as required on the assessment rolls of the city. On each card or in such computer the amount of tax levied and residential sanitation charge imposed and/or water and/or sewer charges relevied shall be entered and the fact of payment, the amount of payment and the date of payment shall be recorded thereon or therein, respectively.

In the event of the installation of a card recording system and/or a computer, the entries thereon or therein shall constitute a record of the payments of taxes and/or residential sanitation charges and/or relevied water and/or sewer charges, and thereafter no entries relative to the payment of taxes and/or residential sanitation charges and/or relevied water and/or sewer charges, shall be required on the assessment rolls. Upon the payment of taxes and/or residential sanitation charges and/or relevied water and/or sewer charges, the tax collector shall give the persons paying such taxes and/or residential sanitation charges and/or relevied water and/or sewer charges a proper receipt therefor.

(L.L. No. 7, 1976, § 4; L.L. No. 2, 1984, § 5)

Editor's note: L.L. No. 7, 1976, § 4, amended § 109 in its entirety. Former § 109 which pertained to recording tax payments, had been derived from L. 1922, Ch. 635, § 109; L. 1933, Ch. 594, § 1; L.L. No. 2, 1952, § 8; L.L. No. 1, 1953, § 1; L.L. No. 3, 1976, § 5.

Sec. 110. Treasurer shall mail tax bills.

As soon as practicable after receiving the tax roll and warrant as provided in section one hundred seven, the city treasurer shall mail to the reputed owner of each parcel of real property whose address is known to the city treasurer, or to such person as may be designated by such reputed owner, a bill which shall state separately the amount of the city tax, the amount of any assessments payable on such parcel for the ensuing fiscal year if any, the amount of the residential sanitation charges payable thereon, if any, and the amount of any relevied water charges and/or sewer rents payable thereon, if any. The failure to mail such bill or the failure of such a bill to be received by the addressee shall not affect the validity of any such tax assessment, residential sanitation charge, and/or relevied water charge and/or sewer rent.

(L. 1922, Ch. 635, § 110; L. 1933, Ch. 594, § 1; L.L. No. 2, 1984, § 6)

Sec. 111. Collection of taxes by civil action.

The city treasurer is hereby authorized and empowered to recover by an action in any court of competent jurisdiction and in the corporate name of the city, the amount of any city tax remaining unpaid after the expiration of ninety days with the additions and fees unpaid thereon, and to recover judgment therefor with the penalties due thereon as herein provided, together with the costs and expenses of such action. A transcript of the judgment obtained in such action may be filed, and such judgment docketed, in the office of the clerk of Nassau County, and it shall, however small the amount, thereupon become a judgment of the county court of said county and a lien to the amount of said judgment upon all real estate of the judgment debtor situated in said county. Upon any

judgment recovered for said unpaid taxes, and docketed in said county clerk's office, execution may be issued and collected as provided by law, and all the provisions of law with reference to the sale and redemption of real estate on execution, or to proceedings supplementary to execution, shall apply to sales, redemptions or such proceedings which may be had under this act. The defendant or defendants in any action brought pursuant hereto shall be the person or persons whose names appeared on the assessment rolls, at the time of the levy of the tax sued for, as the owner or owners of the property upon which the tax was levied.

(L. 1922, Ch. 635, § 111; L. 1933, Ch. 594, § 1)

Sec. 112. Tax enforcement.

Pursuant to chapter 602, section 1186 of the Laws of 1993 of the State of New York, the City of Long Beach hereby declares that chapter 602, sections 1100--1186 of the Laws of 1993 of the State of New York pertaining to tax enforcement under the Real Property Tax Law, shall not be adopted and that tax enforcement and collection shall continue pursuant to article 6 of the existing Charter, sections 100-122(a) inclusive, which may, from time to time, be amended.

(L.L. No. II, 1994, § 1)

Editor's note: Section 112 regarding proceedings in case of failure to collect state and county tax on warrant and derived from L. 1922, Ch. 635, § 112, and amended by L. 1933, Ch. 594, § 1, was repealed by L.L. No. 5, 1977, § 1. L.L. No. II, 1994, § 1, added a new § 112.

Sec. 113. Collection of unpaid taxes, assessments, residential sanitation charges, and relevied water and sewer charges shall be enforced by sale.

The collection of all unpaid taxes, assessments, residential sanitation charges, and relevied water and/or sewer charges, with the interest and penalties thereon, constituting a lien upon real estate in the city, shall be enforced by a sale of the real estate by the city treasurer, subject to the right as hereinafter provided of the purchaser or purchasers at such sale to change or convert such sale into a transfer of the tax lien of the right of the city to collect such taxes, assessments, residential sanitation charges, and relevied water and/or sewer charges. Such sale shall commence on the first Monday in June in each year or on such other alternate date as may hereafter be provided, and shall continue until all the property upon which taxes, assessments, residential sanitation charges, and relevied water and/or sewer charges have been so returned as unpaid, is sold.

(L. 1922, Ch. 635, § 113; L. 1933, Ch. 594, § 1; L.L. No. 2, 1957, § 1; L.L. No. 2, 1973, § 1; L.L. No. 5, 1974, § 1; L.L. No. 5, 1977, § 2; L.L. No. 2, 1984, § 7)

Sec. 114. Listing real estate for tax sale; additional charges.

On or before the first day of March in each year the city treasurer shall make lists of all real estate upon which there are unpaid taxes, assessments, residential sanitation charges, and/or relevied water and/or sewer charges, for which a tax sale has not previously been held, except property which shall have been bid in by the city treasurer at a tax sale and which shall not have been redeemed and upon which the city owns and

holds the lien so bid in.

The list shall contain a description of each parcel of such real estate, the amount of such taxes, assessments, residential sanitation charges, and/or relevied water and/or sewer charges that are unpaid, the interest and charges thereon up to the date of sale, and the name of the owner or occupant of, or party in interest in each parcel, as it appears on the tax roll and/or special assessment rolls. On said tax and/or special assessment rolls opposite each such parcel, the city treasurer shall add interest at the rate of eighteen (18) percentum per annum on each installment from the date on which it was due to the date of sale and an amount sufficient to cover the expenses of listing such real estate for sale and of advertising the notice of listing and notice of sale of real estate so listed. The total of said sums shall on the tenth day of April become a lien upon the real estate affected and shall be the amount required to be paid at any time after April tenth, and before the sale of the real estate described in the list as herein provided. If the sale of such property be postponed beyond the date up to which interest shall have been computed, additional interest, upon the entire sum then due, at the rate of eighteen (18) percentum per annum, from such date to the date of the sale of such property, shall thereafter be added to and collected with such unpaid taxes, assessments, residential sanitation charges, and/or relevied water and/or sewer charges. There shall also be kept books in which the treasurer shall enter the name of the purchaser and the assignee of the purchaser, if any, of any real estate, when the same shall have been sold. The treasurer shall also enter the interest or penalty at which the purchaser shall have agreed to take the parcel or lot of real estate at the tax sales as herein provided. The treasurer shall prescribe the general form of such books and place therein such other columns and spaces and information as he may deem expedient and useful.

(L. 1922, Ch. 635, § 114; L.L. No. 1, 1932, § 1; L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 6; L.L. No. 10, 1946, § 1; L.L. No. 5, 1974, § 1; L.L. No. 5, 1977, § 3; L.L. No. 1, 1979, § 1; L.L. No. 2, 1984, § 8)

Sec. 114-a. Advertisement of notice.

Immediately after completing the list and making the entries on the tax and/or special assessment rolls the treasurer shall cause a notice to be published in two consecutive issues of the official newspaper of the City of Long Beach. Said notice shall be substantially as follows:

> Notice to taxpayers is hereby given that the lists of unpaid taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges have been made. Unless such taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges, with interest and accrued penalties, be paid on or before the tenth day of April the property against which the same are levied will be advertised, and on the _____ day of June thereafter, will be sold. The lists and rolls shall remain open for examination in the city treasurer's office until the day first above mentioned. Any taxpayer interested may send a brief description of his property to the city treasurer and a statement of the amount, if any, of the lien thereon for which such sale is to be held, will be forwarded to him.

Such notice shall be published in said newspaper in a conspicuous place, namely, in agate or similar type in a space not exceeding three inches. Such notice shall specify the date on which such property will be sold, and copies thereof shall be mailed

by the treasurer to any person who, within two years prior thereto, shall have filed a request for same with the city treasurer together with the address to which such notice is to be mailed. Failure to mail or publish such notice will not invalidate or affect the validity of any tax sale of property mentioned or described in said lists.

(L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 7; L.L. No. 10, 1946, § 2; L.L. No. 5, 1974, § 1; L.L. No. 5, 1977, § 4; L.L. No. 1, 1979, § 2; L.L. No. 2, 1984, § 9)

Sec. 114-b. Advertisement of notice of sale.

Once within each of the six successive calendar weeks immediately preceding the first Monday in June in each year, or in the event the requisite advertisement of sale described in the preceding section 114-a had not been published, then once within each of the six successive weeks immediately preceding the first Monday in September, the city treasurer shall cause to be published in the official newspaper of the City of Long Beach a list of real estate so liable to be sold, together with a notice that said real estate will on the first Monday in June or the first Monday in September specified in such notice, and the succeeding days, be sold at public auction at the city hall, Long Beach, Nassau County, New York, and by such advertisement the owner or owners of such lands and tenements, respectively, shall be required to pay the amount of unpaid taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges, with said penalties thereon remaining unpaid, together with interest thereon at the rate of eighteen (18) percentum per annum to the time of sale, with the cost of such notice and advertisement to the city treasurer, and notice shall be given by such advertisement, that if default shall be made in such payment, such lands and tenements will be sold at public auction at a day and place therein to be specified for the amount of unpaid taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges with penalties and other charges thereon, and for the lowest rate of interest during the period of redemption, or until such property be redeemed, at which any person or persons shall offer to take the same. Such list shall contain the name of the owner or occupant of each piece of real estate to be sold, as the same appears upon the assessment roll of the year in which such unpaid taxes were levied, and a brief description of such real estate, and the total amount of such unpaid taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges together with interest, expenses and other charges against the property for the year in which such unpaid taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges were levied, and a brief description of such real estate, and the total amount of such unpaid taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges, which said total amount shall include all interest, expenses and other charges against the property for the year or years advertised.

(L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 6; L.L. No. 10, 1946, § 3; L.L. No. 2, 1973, § 2; L.L. No. 5, 1974, § 1; L.L. No. 5, 1977, § 5; L.L. No. 2, 1984, § 10)

Sec. 114-c. Notice of tax lien sale.

The city treasurer shall, prior to the commencement of publication of the tax lien sale required by the foregoing section 114-b, cause notice of such tax lien sale to be sent by first class mail addressed to the owner and/or mortgagee of each parcel of real estate mentioned in said notice of sale, at their respective addresses shown on the

assessment records of the city or on the records kept by the city treasurer, of each tax lien to be sold. Such notice shall contain a brief description of such parcel of real estate and the lien to be sold, the aggregate amount due on such tax lien at the time of said sale, and a statement that unless such amount is paid prior to the date of the commencement of the tax lien sale proceedings, the said lien will be sold. The expense of mailing such notice shall be an additional expense charged against the total unpaid lien or liens.

(L. 1933, Ch. 594, § 1; L.L. No. 2, 1988, § 1)

Sec. 114-d. Sale of property for unpaid taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges.

If the owner, mortgagee or occupant of, or party in interest in, such real estate does not pay such unpaid taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges, with the costs, additions and charges, within the period stated in such advertisement, then the treasurer may, without further notice, commence the sale of lands specified in such notice of sale on the day set for that purpose and continue the sale from day to day until every such lot or parcel is sold. Such lands may be sold for an amount sufficient to pay all the taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges required by section 114 to be listed as unpaid with interest thereon to the time of sale, and all costs, expenses and charges accrued thereon. Subject to reductions as herein provided, said amount paid for such property shall carry and bear the maximum interest and penalties as follows: Ten (10) percentum on the purchase price, if redeemed within six (6) months of date of sale. An additional ten (10) percentum on the purchase price if redeemed after the expiration of six (6) months and within twelve (12) months of the date of sale. The rate of interest at which any person or persons shall offer to take the lot or parcel of land to be sold shall be established by his bid. The rate thus established shall be the rate of interest up to the time of the redemption of the property purchased and until the expiration of one year from the date of sale.

(L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 8; L.L. No. 10, 1946, § 4; L.L. No. 5, 1977, § 6; L.L. No. 2, 1984, § 11; L.L. No. III/2021, 2021)

Sec. 114-e. When the city treasurer shall bid in property.

In case there shall be no bid for any lot or parcel of real estate the city treasurer shall bid in the same at the maximum penalty, and shall retain a certificate of sale in the amount for which the lot or parcel was offered for sale. The amount of such certificate shall bear the maximum interest and penalties. The city shall have and may exercise all the rights of a purchaser at such sale.

(L. 1933, Ch. 594, § 1; L.L. No. 5, 1977, § 7)

Sec. 114-f. Assignment by city of its liens.

The city shall have power and authority at any time thereafter to assign the lien on any lot or parcel so bid in by the treasurer (by the assignment of a certificate of sale) upon receipt by the city in payment therefor of not less than the amount for which the property was purchased plus interest at six percentum thereon from the date of sale to the date of the assignment, and the assignee thereof shall have all the rights that he

would have had if he had purchased said property at the sale at the maximum penalty.

(L. 1935, Ch. 870, § 9)

Sec. 114-g. Collection charge.

The city treasurer shall make a charge for the cost of the collection of liens upon the property bid in by the city treasurer in section one hundred fourteen-e, but such charge shall in no event exceed five dollars per parcel so offered for sale in the tax sale and so bid in by the city treasurer.

(L. 1935, Ch. 870, § 9)

Sec. 115. When purchasers pay the amounts of their bids; possession of premises purchased.

The purchasers at such sale shall pay to the treasurer ten (10) percentum of the purchase price immediately after the sale of the property and the remaining ninety (90) percentum within thirty (30) days after such sale, and thereupon the treasurer shall execute to each purchaser a certificate in writing which shall contain a description of the real estate purchased, the amount paid therefor, the interest or penalty thereon at which such property was bid, the date of the sale and that the same was sold for unpaid taxes, assessments, residential sanitation charges and/or relevied water and/or sewer charges, the name of the owner or occupant of such property as it appears on the tax books, and such other information as the treasurer shall deem expedient.

Upon the failure to pay the balance of the ninety (90) percentum within thirty (30) days from the date of such sale the rights of such purchaser shall be extinguished and all moneys theretofore paid by such purchaser shall be forfeited, and shall belong to and become the sole and absolute property of the City of Long Beach for the expenses of sale and as liquidated damages, and the said property shall be deemed to have been bid in by the city treasurer at the maximum penalty as if no other bid were made.

The purchaser at such sale or his heirs and assigns, at any time after the time limited in sections 116 through 118 of this act for the redemption of such premises shall have expired, and the notice therein provided shall have been given, and said premises shall not have been redeemed as therein provided and title to said premises shall have been conveyed to him as therein provided, and not before, may obtain actual possession of the premises by an action at law or by causing the occupant of such real estate to be removed therefrom, and the possession thereof to be delivered to him in the same manner, and in the same type of proceeding, and before the same officers or court as in the case of a tenant holding over after the expiration of his term without the permission of his landlord.

(L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 10; L.L. No. 5-1977, § 8; L.L. No. 2, 1984, § 12)

Sec. 115-a. Two or more separate and distinct parcels of real estate may be included in one transfer.

The city treasurer may include in one certificate of sale, to a purchaser at the tax sale, two or more lots or separate and distinct parcels of real estate sold to the same

purchaser, but such separate and distinct lots or parcels of real estate must be offered separately at the public tax sale.

(L. 1933, Ch. 594)

Sec. 115-b. Reserved.

Editor's note: Former § 115-b, derived from L. 1933, Ch. 594, § 1, pertaining to the disposition of proceeds of sale for county tax, was repealed by L.L. No. 5, 1977, § 9, enacted Nov. 17, 1977.

Sec. 116. When owner may redeem.

The owner of, or any person interested in, or having a lien upon, any real estate so sold as aforesaid, may redeem the same at any time within twelve (12) months after the date of such sale upon the following terms. If redeemed within nine (9) months by paying to the treasurer the sum for which said property was purchased with the interest or penalties thereon, calculated and added to such purchase price as provided in section 114-d of this article. If redeemed after nine (9) months and within twelve (12) months, by paying to the treasurer, in addition to the sums aforementioned, a further sum which shall be the actual costs of the title and tax search and of publishing and serving the notices prescribed in section 117 of this article, which in no event shall exceed one hundred dollars ($100.00). If the said property was bid in by the treasurer at any tax sale and the city owns and holds the lien so bid in, by paying in addition all subsequent taxes, assessments, residential sanitation charges, water charges and/or sewer rents, plus interest and penalties thereon, which are a lien on such property. If taxes shall not have been extended and apportioned against properties bid in by the city treasurer, as provided by sections 106 and 107 of this article, such properties so omitted from the tax rolls may be redeemed by the owner or any person interested, provided the city shall not have acquired title thereto, upon the payment to the city treasurer for the use and benefit of the city a sum equal to the gross amount of the taxes, residential sanitation charges, water charges and/or sewer rents, and expenses of such sale, together with the penalties and interest thereon, which would have been due on such properties had they been taxed during each of the years they were so omitted from the tax rolls. The said taxes for each of the years during which such properties are so omitted from the tax rolls shall be computed on the basis of the assessed valuations returned on said properties by the assessors of the City of Long Beach, and at the rates fixed by the council of the City of Long Beach as the city tax rate for the City of Long Beach. If said property be redeemed after the commencement of the foreclosure proceedings, the person redeeming the same shall pay in addition to the aforementioned sums the bill of costs as prescribed in section 118-h of this article. The expenses allowed for searching in this section shall be part of the foreclosure disbursements and not in addition thereto. In case such payment be made to the city treasurer, he shall receive the same for the benefit of the holder of the tax certificate thus discharged, and shall give notice thereof to the purchaser by mail, addressed to such address as may have been furnished to the treasurer. Upon receiving the surrender of the certificate of sale or assignment or transfer thereof or a release of the property purchased duly executed by the owner of record of such certificate of sale, the treasurer shall pay the amount thus deposited to the person or persons who, according to records in his office appear to be entitled thereto, or to the personal representative of such person. The treasurer, upon the surrender of the certificate of sale by the owner thereof or upon the release of the

property purchased as provided in section 116-a, shall cancel and discharge the tax, assessment, residential sanitation charges, water charges and/or sewer rents, upon the record.

(L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 11; L.L. No. 11, 1946, § 1; L.L. No. 5, 1980, § 1; L.L. No. 2, 1984, § 13)

Sec. 116-a. Release and transfer of lots and certificates of sale.

The purchaser or the owner for the time being of tax certificates of sale of such several parcels or lots shall duly execute and acknowledge, in the manner now required in the case of a deed, releases of each and every parcel or lot which has been redeemed through the city treasurer's office or directly with the purchaser or owner for the time being of such tax certificates. Such releases shall be filed in the office of the treasurer.

(L. 1933, Ch. 594, § 1)

Sec. 116-b. Rights of purchasers.

The amount paid by a purchaser at such tax sale, together with the progressive interest or penalties thereon, at the rate of his bid together with the costs and expenses as herein provided, shall be due and payable to such purchaser twelve (12) months from the date of such sale.

(L. 1933, Ch. 594, § 1; L.L. No. 12, 1946, § 1)

Sec. 117. Notice to redeem.

(a) Notice shall be given, in the manner and with the force and effect herein provided, by the purchaser of any real estate sold for taxes under the provisions of this article, and not redeemed as herein provided, to the occupant, owner in fee, registered agent of the owner, attorney in fact whose power of attorney is recorded, trustee, mortgagee, or his registered tax agent, judgment creditor or purchaser at any other city tax sale of the same property whose certificate is a lien on said premises, and the heirs and assigns of record of any or either of them, and the guardian of record of any infants having any interest therein, and on any other person having a lien, claim or interest appearing of record on the premises affected by such sale. The words "of record" shall be construed to mean appearing of record from the records kept by the Nassau County Clerk, the Surrogate of Nassau County, the Treasurer of Nassau County and the Receiver of Taxes of the City of Long Beach. Such notice may be given at any time after the expiration of nine (9) months from the date of such sale; it shall either be written or partly written and partly printed and shall describe briefly the lot or parcel of land to be redeemed and state the amount due at the time of sale, the amount for which the property was sold and the expenses of making searches thereon, and if the city gives the notice, any additional taxes, assessments, residential sanitation charges, water charges and/or sewer rents, with interest and penalties thereon, which must be paid as a condition of redemption, the last day of redemption of any such real estate and the place and hours where and when the money for such redemption can be paid, which place shall be in the City of Long Beach, and which hours shall be between nine o'clock in the

forenoon and four o'clock in the afternoon. The last day of redemption to be specified in said notice shall be not less than three (3) months from the day of service of the same. Said notice shall further state that the purchaser of such property at such tax sale elects to accept a deed of conveyance of such property as herein provided or to call his money and foreclose his tax lien on or after a date therein mentioned not less than three (3) months after the date of service of such notice, as the case may be, in the event that such property is not redeemed on or before the date stated in such notice.

(b) Said notice to redeem shall be served by certified mail, postage prepaid, return receipt requested and addressed to each such person's last known address. The receipt of the postmaster for such certified mail or the affidavit of the person mailing it shall be sufficient evidence of service of the notice. If after diligent inquiry no information can be obtained as to the last reputed place of residence of the said owner or owners or other parties in interest or any of them, either through the records of the Nassau County Clerk, the Surrogate of Nassau County, the Treasurer of Nassau County or the Receiver of Taxes of the City of Long Beach, service of said notice on such person shall be made by affixing one copy of said notice upon the premises to be redeemed and posting an additional copy in the lobby of Long Beach City Hall; except that if it shall be a corporation, then such notice shall be served on said corporation in accordance with Article 3 of the New York Business Corporation Law. In the event that there shall be more than twenty (20) occupants of said real estate, the notice may be served upon such occupants by affixing one copy thereof to the entrance door of the building and posting one copy thereof in a prominent place in the lobby or other similar common portion of the building, and affixing a copy to the entrance door of each occupied residential unit in said building, and by publishing a copy of said notice once in each week for two (2) successive weeks in the official newspaper of the City of Long Beach. The affidavit of the person serving the notice shall be satisfactory evidence of due and proper service of the same.

(c) The city's receiver of taxes, upon receiving a copy of such notice to redeem, together with proof by affidavit of the holder of the tax lien or his attorney or agent that service has been properly made pursuant to this section and stating the expenses incurred for searches and serving the notice, shall make an appropriate notation of such service and expense in his records. Such expense may not exceed two hundred fifty dollars ($250.00), and shall be collected by the receiver of taxes at the time of the satisfaction of the tax lien as provided in section 116 of this charter. Such searches may be made by a reputable title company, and in the event of the foreclosure of the tax lien, shall be allowed in the bill of costs. Not more than one notice to redeem may be served by any purchaser of a tax lien where the certificate of sale of such tax lien covers lots of identical title which are contiguous. However, as many certificates of sale as the holder may wish may be included in one notice to redeem, without respect to difference in ownership, in which event the cost shall be apportioned by lot.

(L.L. No. 5, 1980, § 2; L.L. No. 2, 1984, § 14; L.L. No I/97, § 1, 10-7-97)

Editor's note: Section 117, relative to notice to owner by purchase, was repealed by § 2 of L.L. No. 5 of 1980. Said section derived from L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 12; L.L. No. 11, 1946, § 2; and L.L. No. 2, 1980, § 1. Further, § 2 of L.L. No. 5 enacted a new § 117.

Sec. 117. Notice to redeem.

Sec. 118. Conveyance of property not redeemed.

If such real estate, or any part thereof, be not redeemed as herein provided, the treasurer may execute to the purchaser, its or his heirs, successors or assigns, upon performance by such purchaser of the conditions herein provided, and upon surrender of said certificate of sale or upon delivery of a release of such real estate to the grantee as herein provided and upon the purchaser's paying for and taking an assignment of all outstanding prior liens held by the city upon the premises and upon the filing of proof of service of notice upon the owners and other interested persons as herein provided, a conveyance of the real estate so sold, which conveyance shall vest in the grantee an absolute estate in fee, subject to all claims which the city may have thereon for tax or other liens or encumbrances. The city treasurer shall be entitled to demand and receive from such grantee, for the use of the city, the sum of one dollar ($1.00) for preparing such conveyance. Every such conveyance shall be signed by the treasurer and the seal of the city shall be affixed thereto, and attested by the city clerk, and when so executed shall be presumptive evidence that the sale was regular and also presumptive evidence that all proceedings prior to the sale, including the assessment of the lands sold, and all notices required by law to be given previous to the expiration of the time allowed by law for the redemption thereof, were regular and according to law. After six (6) years from the date of record of any such conveyance in the Nassau County Clerk's office, such presumption shall be conclusive. Every certificate of sale or conveyance executed in pursuance of this act may be recorded in the same manner and with like effect as a deed if acknowledged or proved before an officer authorized by law to take proof and acknowledgement of deeds. Two (2) or more lots or parcels of real estate sold to the same person may be included in the same tax deed.

(L.L. No. 1, 1932, § 2; L.L. No. 1933, Ch. 594, § 1; L.L. No. 11, 1946, § 3; L.L. No. 1, 1982, § 1; L.L. No. III/2021, 2021)

Sec. 118-a. Action by purchaser.

The holder of any certificate of sale, heretofore or hereafter executed by the treasurer, instead of taking a conveyance of the property purchased, may at his option recover the amount paid for such property, as in such certificate mentioned with all interest, penalties, additions and expenses allowed by law, and for that purpose may maintain an action in the supreme court or in the county court of Nassau County to sell such property. Jurisdiction of such action is hereby conferred upon said county court.

(L. 1933, Ch. 594, § 1)

Sec. 118-b. When foreclosure action may be commenced.

Except as herein otherwise provided, the action provided for in the last section may be commenced at any time after twelve months from the date of sale mentioned in the certificate of sale, and all the provisions of the Civil Practice Act and all other provisions of law and the rules of practice relating to actions for the foreclosure of mortgages shall apply to the action hereby authorized so far as applicable, except as herein otherwise provided. It shall be sufficient for the plaintiff to set forth in his complaint in such action a copy of or the substance of his certificate of sale, and the interest, penalties, additions and expenses claimed by him, with a statement that the premises described in the certificate of sale have not been redeemed or conveyed pursuant to the provisions of this act, and that the plaintiff elects to recover as herein provided, also that

the defendants have or may have some interest in or lien upon the property affected by this action.

(L. 1933, Ch. 594, § 1; L.L. No. 11, 1946, § 4)

Sec. 118-c. Parties to the action.

The plaintiff in such action shall include and join therein and may likewise recover upon all prior and subsequent certificates of sale, held by him, executed by the treasurer of the City of Long Beach, relating to the same real property in whole or in part. He may include and join in one action all such certificates of sale relating to two or more separate and distinct parcels of real property belonging to the same person or to two or more persons, provided, however, that all lots or parcels belonging to separate persons shall be distinctly set forth in separate paragraphs of the complaint and shall be sold under such proceedings separately. He shall make parties to the action the owner of and all other persons interested in the real property affected, or any part thereof, including the holders of all other prior and subsequent certificates of sale executed by said treasurer as shown by the records in the treasurer's office at the time of the commencement of such action. The City of Long Beach, Union Free School District Number Twenty-eight of the Town of Hempstead, the County of Nassau, or the people of the State of New York may be made parties to such action the same as a natural person and the summons shall be served on the attorney-general who shall appear on behalf of the state, and the complaint shall set forth, in addition to the other matters required to be set forth by law, detailed facts showing the particular nature of the interest in or the lien on the said real property of the City of Long Beach, the County of Nassau, or the people of the State of New York.

(L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 13; L. 1953, Ch. 878, § 177)

Sec. 118-d. Court shall determine and enforce all rights of parties to said action.

The court shall have full power to determine and enforce in all respects the rights, claims and demands of the several parties to said action, including the rights, claims and demands of the defendants as between themselves, to direct a sale of such real property and the distribution or other disposition of the proceeds of sale. Any party to the action, including the City of Long Beach, Union Free School District Number Twenty-eight of the Town of Hempstead and the County of Nassau, may become the purchaser at any such sale.

(L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 14; L. 1953, Ch. 878, § 178)

Sec. 118-e. Distribution of proceeds of sale.

The plaintiff and the defendants in said action, including the City of Long Beach, Union Free School District Number Twenty-eight of the Town of Hempstead and the County of Nassau, who are the holders of certificates of sale, shall be paid from the proceeds of the sale the several amounts paid for real estate purchased as mentioned and described in the certificates of sale held by the [*sic;* probably should be "them"], with all interest, penalties, additions, costs and expenses allowed by law, so far as the paid proceeds shall suffice to pay the same in the order of the lawful priority of the liens and the interest of the respective parties in and against the premises as the same may be

determined in this action. It shall be sufficient for any such defendant to set forth in his answer his certificate of sale or the substance thereof with the other allegations in effect as herein provided with regard to the complaint in the action. A defendant alleging irregularity or invalidity in any tax, assessment or sale shall particularly specify in his answer such irregularity or invalidity.

(L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 15; L. 1953, Ch. 878, § 179)

Sec. 118-f. Remedies herein provided are additional.

The remedy herein provided for the recovery of the amount due the purchaser by action and foreclosure shall be in addition to all other remedies allowed by law with regard to certificates of sale, and shall not be dependent upon them, or any of them; provided, however, that nothing in this act contained shall be held to revive or validate any claim or demand, the enforcement of which otherwise is barred by lapse of time.

(L. 1933, Ch. 594, § 1)

Sec. 118-g. Conveyance vests absolute fee in purchaser.

The conveyance made pursuant to a judgment in any action, brought as herein provided, shall vest in the purchaser all right, title, interest, claim, lien, and equity of redemption in and against the premises sold, of all the parties to the action, and of all persons claiming under them, or any or either of them, subsequent to the filing of a notice of the pendency of the action, or whose conveyance or incumbrance is subsequent or is subsequently recorded, except subsequent taxes, assessments, residential sanitation charges, water charges and/or sewer rents and sales on account thereof, and except taxes, assessments, residential sanitation charges, water charges and/or sewer rents which were liens on the premises at the time of the filing of a notice of pendency of the action but for the nonpayment of which no sale had been had prior thereto, and sales on account thereof, and all such parties and persons shall be barred and forever foreclosed by the judgment in said action of all right, title, interest, claim, lien and equity of redemption in and to the premises sold, or any part thereof, except as aforesaid. The judgment in any such action may direct the cancellation or satisfaction of record of taxes, assessments, residential sanitation charges, water charges and/or sewer rents or other claims of any of the parties to the action.

(L. 1933, Ch. 594, § 1; L.L. No. 2, 1984, § 15)

Sec. 118-h. Costs and allowances.

The court may in its discretion designate the sheriff of Nassau County as the officer to make the sale of real property in any action or proceeding brought as herein provided, and the sheriff shall serve without charge. In case the City of Long Beach or the County of Nassau shall be the plaintiff, such plaintiff shall first be paid its actual disbursements of the foreclosure action out of the proceeds of sale, including the cost of title search, advertising, filing and other fees but not including attorney's fees or costs or allowances. Subject to the foregoing, unless the judgment otherwise directs, the officer making the sale must, out of the proceeds, first pay, as a part of the expenses of the sale, all taxes, assessments, residential sanitation charges, water charges and/or sewer

rents which are liens upon the property sold, and which have become such prior to or subsequent to the filing of notice of pendency of the action, and redeem the property sold from any sales for unpaid taxes, assessments, residential sanitation charges, water charges and/or sewer rents which were had subsequent to the filing of such notice of pendency of action. The plaintiff's costs and allowances, exclusive of disbursements, shall be the same as the costs and allowances now provided by the Civil Practice Law and Rules in the case of foreclosure of mortgages on real estate by action, except that there shall be no allowance by statute or by the court unless the amount recovered is in excess of five hundred dollars.

(L. 1933, Ch. 594, § 1; L. 1935, Ch. 870, § 16; L.L. No. 2, 1984, § 16)

Sec. 118-i. Foreclosed tax certificate not arrears.

Any party to an action to foreclose a certificate of sale, or any purchaser or any party in interest may give notice of such foreclosure to the city treasurer after the sale of such property pursuant to a judgment under such proceeding, and after such notice has been duly served the items which constituted the lien thus foreclosed shall not be entered by the city treasurer on any bill or in any yearly assessment roll, so long as the judgment of foreclosure of such lien remains in force.

(L. 1933, Ch. 594, § 1)

Sec. 118-j. Presumption of validity of tax.

It shall be presumed that every tax levied, assessment made, any residential sanitation charge entered, or any water charge or sewer rent imposed is valid and regular, and that all the steps and proceedings required by law were taken and had, until the contrary shall be made to appear. Any action or proceedings commenced by any person or persons to test the validity or regularity of any tax levied or assessment made, or any residential sanitation charge entered, or any water charge or sewer rent imposed shall be commenced within one year from the date when the same became a lien. The invalidity or irregularity of any tax assessment, residential sanitation charge, water charge or sewer rent shall not be available as a defense to any action or proceeding commenced after the expiration of one year from the publication of such notice as aforesaid for the enforcement of any right or title by virtue of any sale thereunder, unless an action or proceeding to test the validity or regularity of such tax, assessment, residential sanitation charge, water charge or sewer rent shall have been commenced within the time hereinabove limited for commencing the same, and shall be still pending, or such tax, assessment, residential sanitation charge, water charge or sewer rent shall have been adjudged to be irregular and invalid.

(L. 1933, Ch. 594, § 1; L.L. No. 2, 1984, § 17)

Sec. 118-k. Assessment and tax not invalidated by irregularities.

No tax, assessment, residential sanitation charge, water charge or sewer rent shall be vacated, set aside, cancelled, annulled, reviewed or otherwise questioned or affected by reason of any error, omission, irregularity or defect, not actually fraudulent, in any of the steps or proceedings required to be had or taken as preliminary to, or in the levying, or charging thereof, nor in relation to or in connection with any proposal, designation of materials contract, work or improvement for or on account of which such

tax, assessment, residential sanitation charge, water charge or sewer rent was imposed. But all property shall be liable to taxes, assessments, residential sanitation charges, water charges and sewer rents, [which] shall be valid and of full force and effect notwithstanding any such error, omissions, irregularity or defect.

(L. 1933, Ch. 594, § 1; L.L. No. 2, 1984, § 18)

Sec. 118-l. Foreclosure of tax lien; appointment of receiver.

At any time after the commencement of an action to foreclose a tax lien and prior to the execution of the conveyance of the deed to the property affected by such tax lien, in any action brought by and on behalf of the City of Long Beach, said city shall, as a matter of right, be entitled to the appointment for its benefit of a receiver of the rents and profits of the property affected by the lien being foreclosed. Application for the appointment of such receiver shall be to the court in which such action is pending, or to a judge thereof. Such application may be made ex parte. On every such application the court shall designate the treasurer of the City of Long Beach as such receiver, and said treasurer shall serve as such without any additional fees or compensation. The treasurer shall file no bond or undertaking in connection with any receivership granted hereunder, other than the bond required by him to be filed pursuant to section fifteen of the charter of the City of Long Beach.

(L. 1939, Ch. 612, § 1)

Sec. 119. Reimbursement for invalid or irregular tax lien or certificate of sale.

When any purchaser under such sale, or his heirs or assigns shall be unable to recover or retain possession of any real estate sold to him, or to maintain successfully any proceedings pursuant hereto, by reason of any irregularity or error in the assessment of any person or property or the levying of any tax, assessment, residential sanitation charge, water charge or sewer rent thereon, the city treasurer shall reimburse the purchaser for all money paid pursuant to such sale, with interest from the time of its payment at the rate of six percentum per annum, and thereupon the council shall order a reassessment of any amount or sum so paid upon the same real estate or against the same person, which shall for all the purposes of this article be deemed, and taken to be, an original general city tax, assessment, residential sanitation charge, water charge or sewer rent as of the date of such reassessment.

(L. 1933, Ch. 594, § 1; L.L. No. 2, 1984, § 19)

Sec. 119-a. Record of transfer of tax liens.

The city treasurer shall enter and record in his office his proceedings upon such sales, and all certificates granted by him, and all assignments of certificates, and releases of lots authorized by section one hundred sixteen-a hereof, and all redemptions and all proceedings whereby sales are defeated or discharged. He shall also file and record all notices of sale published by him, together with his own affidavit, or that of the publishers aforementioned of the papers in which said advertisements were published, of the publication of said notices, and all other notices which have been given by him; and he shall keep a record of all certificates and evidence made by him, under this act.

(L. 1933, Ch. 594, § 1)

Sec. 119-b. Correction of errors in assessment rolls.

If it shall be made to appear to the council upon the verified petition of a majority of the assessors:

First: That any taxable property in the city has by mistake been placed on the assessment roll at a value different from that which the assessors intended for such property, the council may on or before the first day of June following the filing of such roll in the office of the city clerk cause the same to be corrected and, if the value is increased, may cause to be inserted thereon the additional amount of tax or assessment due therefrom and, if the value is decreased, may cause to be credited thereon so much of the tax or assessment as is represented by the amount of decrease.

Second: That any taxable property therein has been omitted from any assessment roll for any preceding year, the council shall cause the same to be inserted on the roll for the current year at a valuation to be fixed by the assessors in their petition, which shall be the value for the year omitted and shall also cause to be inserted thereon in addition to the amount of tax or assessment for the current year and in a separate column properly designated, the amount of tax or assessment which such property should have borne for the year when such property was omitted, which shall be at the rate percentum of the omitted year.

Third: That any taxable property therein has been omitted from the assessment roll for the current year, the council shall cause the same to be placed thereon at a value to be fixed by the assessors in their petition and shall cause the amount of tax or assessment to be placed thereon which shall be at the rate percentum of the current year.

Fourth: That any taxable property therein has been assessed in any assessment roll or any separate tax district column thereof including the current roll with property of another, or that another person, or persons, have become owners of a part or parts of such property since the making of such roll, the council may cause the assessed valuation and the amount of tax or assessment thereon to be apportioned accordingly.

A copy of the petition under the first, second or third subdivision of this section, with a notice of the presentation thereof to the council shall be served in such manner as the council may direct or approve on the person or persons alleged to be affected thereby and the council shall take no action on such petition unless proof of the manner of service of such petition and notice be made to them by affidavit. The council shall give to the person or persons alleged to be affected thereby an opportunity to be heard and on such hearing and review, the council shall have all the powers that the assessors have in reviewing and correcting the assessment roll. If under the fourth subdivision of this section any tax or assessment is apportioned, the receiver of taxes shall receive the same separately when so apportioned. Any omitted taxable real property added to the rolls, as herein provided, or any reassessment of any tax or assessment as herein provided, or any correction of an error as herein provided, by which the tax is made greater than was the original assessment shall not be a lien on the real property for such additional amount as against purchasers or mortgagees in good faith.

(L. 1933, Ch. 594, § 1)

Sec. 119-c. Reissue of certificate of sale.

If a certificate of sale shall have been lost or destroyed, the treasurer shall, upon submission to him of satisfactory evidence of such loss or destruction, issue a duplicate of the original certificate. The evidence of loss or destruction must be in writing, proved by the oath of one or more persons to the satisfaction of the treasurer, who shall preserve the same in his office.

(L. 1933, Ch. 594, § 1)

Sec. 119-d. Recording of tax deeds; cancellation.

All tax deeds executed as herein provided may be recorded as other conveyances of land under the laws of this state. Such deeds, and also deeds issued on any prior tax sales, if not recorded in the office of the county clerk, may be returned to the city treasurer and cancelled at any time. Such cancellation shall terminate all rights of the purchaser thereunder. The owner of any certificate of sale issued on any prior tax sale shall not be required to apply for conveyance of the land described therein within four years after the expiration of one year from the last day of sale, as required by the tax law, but may apply for and obtain such conveyance at any time prior to bringing action for foreclosure.

(L. 1933, Ch. 594, § 1)

Sec. 119-e. Removal of buildings on lands sold.

Any person, who under such deed, may enter into possession of such real estate and erect or place any building, building materials, or other property thereon, shall have the right in case he shall be ousted by any person claiming adversely to said deed, within three months after trial, judgment or ouster or ejectment, to remove said building, building materials or property from said real estate.

(L. 1933, Ch. 594, § 1)

Sec. 119-f. Bill of taxes to show arrears.

There shall be a ruled column for arrears in every tax bill rendered for taxes upon lots on which said arrears or assessments may be due, or may have been sold and are still redeemable, in which shall be written opposite the entry of the description of said lot or parcel of land "arrears". The word "arrears" on the tax bill may indicate that the property has been sold, or is to be sold for unpaid taxes, assessments or water rents.

(L. 1933, Ch. 594, § 1)

Sec. 119-g. The validity of taxes and sales of real estate not affected.

Nothing contained in this act shall be held or construed in any way as affecting the validity of the lien of any tax heretofore levied, or of any sale of lands, for the nonpayment of such taxes, heretofore held.

(L. 1933, Ch. 594, § 1)

Sec. 119-h. Affidavits of publication of necessary notices to be preserved.

It shall be the duty of the city treasurer to procure, preserve and register in his office, affidavits of the publication of all the notices by this title required to be published, and such affidavits shall be presumptive proof of such publication in all the courts of this state.

(L. 1933, Ch. 594, § 1)

Sec. 119-i. When certificate of sale deemed a tax lien.

When a purchaser files an election that his purchase shall be the purchase of the tax lien or the right of the city to receive taxes, assessments, residential sanitation charges, water charges and/or sewer rents, the certificate of sale held by such purchaser, shall thereafter be deemed a transfer of the tax lien, or right of the city to collect such taxes, assessments, residential sanitation charges, water charges and/or sewer rents; and in proceedings to recover the amount due the holders of such certificate, as herein provided, it shall not be necessary to plead or prove any action, proceedings, or right of action, preceding the delivery of such certificate by the city treasurer, nor to establish the validity of the lien transferred by such certificate.

(L. 1933, Ch. 594, § 1; L.L. No. 2, 1984, § 20)

Sec. 119-j. Payment of taxes by purchaser; penalties thereon.

The owner or holder of a certificate of sale of lots or parcels of real estate purchased at a tax sale, provided for herein, may at any time after interest has begun to accrue on subsequent taxes, assessments, residential sanitation charges, water charges and/or sewer rents, pay to the city treasurer any such unpaid taxes, assessments, residential sanitation charges, water charges and/or sewer rents, and any prior taxes, assessments, residential sanitation charges, water charges and/or sewer rents which constitute a lien on such property; and the holder of such certificate making such payment shall be entitled to and shall receive the full amount thus paid with interest and penalties thereon from the date of payment at the same rate and payable in the same manner as the interest or penalties at which he purchased such property at said tax sale. Such taxes, assessments, residential sanitation charges, water charges and/or sewer rents with the same interest and penalties thereon from the date of such payment as herein provided shall become a lien on said property and payable at the time of the redemption thereof, or out of the proceeds realized at the sale of said property under the foreclosure of the certificate of sale as provided in this article.

(L. 1933, Ch. 594, § 1; L.L. No. 2, 1984, § 21)

Sec. 119-k. When lands imperfectly described.

When any lands are imperfectly described in any tax or assessment roll, the council may direct the assessors to correct the description. The assessors may, at any time before the lands are advertised for sale for the nonpayment of taxes, assessments or water rents correct the imperfect description and not thereafter.

(L. 1933, Ch. 594, § 1)

Sec. 119-l. Tax agent.

A mortgagee of lands situated in the city who resides out of it, may appoint an elector of the city as his tax agent. Upon the presentation of written evidence of such appointment to the city treasurer, he shall file the same, and register the names and addresses of such tax agents in a book to be kept by him for that purpose.

(L. 1933, Ch. 594, § 1)

Sec. 120. Collection of local assessments and water rents.

Whenever an assessment shall be ordered for local improvements the assessment shall be made to resemble in form as nearly as practicable the tax list and be provided with a column in which payments can be entered by the treasurer. All provisions relating to the collection of taxes in this act shall be applicable to the collection of assessments, and water rents.

(L. 1922, Ch. 635, § 120; L. 1933, Ch. 594, § 1)

Sec. 121. Water charges as a lien on property; relevy.

1. *Definitions:* For the purpose of this section, "Relevy" is the procedure in which outstanding water/sewer charges are referred to the tax department and added to a property owner's tax bill. "Relevy amount" is the amount of unpaid water/sewer charges for a particular premises from the previous calendar year, together with interest which has accrued at the rate of one and one-half (1 1/2) of the calendar year in which the charges were billed. "Relevy date" is the first business day in June of each calendar year. "Supervisor" is the supervisor of the water/sewer administration.

2. *Procedure for Relevy:*

   (a) On the relevy date in each calendar year, the supervisor shall calculate the relevy amount as defined in this section. The supervisor shall then report the relevy amount for each premises to the city treasurer.

   (b) Upon receiving the report of the supervisor, the city treasurer shall relevy the relevy amount for each premises, at which time said charges shall be added to the real estate tax bill of the owner of the premises and shall become a lien against the property with the same force and effect as any other tax lien.

   (c) Upon relevy, the city treasurer shall add an administrative charge to any relevy amount of one hundred dollars ($100.00) or more. The administrative charge shall be either one hundred dollars ($100.00) or ten (10) percent of the relevy amount, whichever is greater, and said charge shall likewise become a lien.

   (d) After relevy, the relevy amount, plus the administrative charge if any, shall appear on the next tax bill.

   (e) The owner or person responsible for the water/sewer bills for each

premises may make payment directly to the supervisor for a previous year's water/sewer charges--including interest which has accrued and compounded pursuant to chapter 25 of the Code of Ordinances--until the last business day in May. As of the relevy date, payments for a previous year's charges must be made directly to the tax department.

3. *Method of Crediting Payments:* After December 31 of each year, payments received by the supervisor for water/sewer charges shall be credited to any outstanding balance from the previous year, which charges must be paid in full before payments can be applied to current charges. When no charges from a prior year are outstanding, the oldest charges on a bill shall be credited first.

(L.L. No. 1, 1935, §§ 1--5; L.L. No. 2, 1935, § 1; L.L. No. 3, 1936, § 1; L.L. No. 5, 1936, § 1; L.L. No. 1, 1937, § 1; L.L. No. 1, 1939, § 1; L.L. No. 3, 1941, § 1; L.L. No. 1, 1943, § 1; L.L. No. 2, 1943, § 1; L.L. No. 4, 1943, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L.L. No. 5, 1974, § 1; L.L. No. 1, 1992, § 1; L.L. No 1, 2009)

Sec. 121-a. Water meters and charges.

1. From and after February 29, 1976, all water used or consumed in or upon any house, building, structure or land where water is used, shall pass through and be measured by a water meter, except for firematic and/or standpipe systems, and except for water used or consumed by any department or in any structure of the City of Long Beach. From and after July 1, 1976, charges for such water, and for sewer services where applicable, shall be based upon the quantity of water used or consumed, except that firematic and/or standpipe systems shall be charged on a flat-rate basis. Water charges for water used or consumed by any department or in any structure of the City of Long Beach which is not measured by a water meter, and sewer charges where applicable, shall be estimated by the commissioner of public works.

2. The city council shall enact such ordinance and/or resolutions as it shall deem necessary or proper to provide for the due installation, repair and maintenance of such water meters and for the sums to be charged and collected for the waters so used or consumed.

3. All charges for water furnished and for meter charges, and interest and penalties for nonpayment and for noncompliance, shall be and become liens upon the property to which such water is furnished and/or where such meter is located or is required to be located, when such charges are billed and entered on the records of the city.

4. The commissioner of public works may estimate the charges for water furnished and/or to be furnished to any premises, and sewer rents and charges may be computed on the basis of such estimate, for any period of time when a proper water meter reading is not readily available for any reason whatsoever, and a bill for such estimated water and sewer charges may be rendered and entered upon the basis of such estimate, which shall have the same force and effect, and may be collected and enforced in all respects in the same manner as a bill predicated upon a proper water meter reading. Such estimated water and sewer charges may be adjusted when and if a proper water meter reading shall thereafter become available, upon the basis of such proper water meter reading.

(L.L. No. 3, 1976, § 6; L.L. No. 2, 1977, § 1)

Sec. 122. Sewer rents.

(a) *Sewer system, defined.* As used in this section, the term sewer system shall mean and include the sewers, manholes, intercepting sewers, sewage pumping, treatment and disposal works, and any other plants, works or equipment and accessories, which are used or useful in connection with the collection, treatment or disposal of sewage and waste, and which are owned, operated or maintained by the city as part of the public sewer system. This definition is intended to include the sewer system both within and without the city.

(b) *Imposition and computation of sewer rents.*

1. In addition to any other fees or charges provided by law, the owner of any parcel of real property connected with the sewer system, including but not limited to real property connected with the sewer system by means of a private sewer or drain emptying into the sewer system, shall pay a sewer rent for the use of the sewer system.

2. Sewer rents applicable to premises within city limits. On and after July 1, 1975, the annual sewer rent for real property located within the city limits is hereby fixed at an amount equal to sixty-seven (67) per cent of the water charges and rents for any such real property.

   On and after July 1, 1976, the sewer rents for real property located within the city limits is hereby fixed at an amount equal to eighty-four (84) per cent of the water charges for any such real property, to be billed and paid simultaneously with such water charges and to bear like penalties for nonpayment thereof.

   On and after July 1, 1978, the sewer rents for real property located within the city limits is hereby fixed at an amount equal to seventy-five (75) per cent of the water charges for any such real property, to be billed and paid simultaneously with such water charges and to bear like penalties for nonpayment thereof, and bills shall be rendered on the basis of said rate on and after October 1, 1978.

   On and after July 1, 1989, the sewer rents for real property located within the city limits is hereby fixed at an amount equal to one hundred (100) per cent of the water charges for any such real property, to be billed and paid simultaneously with such water charges and to bear like penalties for nonpayment thereof, and bills shall be rendered on the basis of said rate on and after October 1, 1989.

   On and after July 1, 2016, the sewer rents for real property located within the city limits is hereby fixed at an amount equal to one hundred eight (108) per cent of the water charges for any such real property, to be billed and paid simultaneously with such water charges and to bear like penalties for nonpayment thereof, and bills shall be rendered on the basis of said rate on and after October 1, 2016.

   On and after July 1, 2017, the sewer rents for real property located within the city limits is hereby fixed at an amount equal to one hundred fifteen

(115) per cent of the water charges for any such real property, to be billed and paid simultaneously with such water charges and to bear like penalties for nonpayment thereof, and bills shall be rendered on the basis of said rate on and after October 1, 2017.

On and after July 1, 2018, the sewer rents for real property located within the city limits is hereby fixed at an amount equal to one hundred twenty (120) per cent of the water charges for any such real property, to be billed and paid simultaneously with such water charges and to bear like penalties for nonpayment thereof, and bills shall be rendered on the basis of said rate on and after October 1, 2018.

On and after July 1, 2019, the sewer rents for real property located within the city limits is hereby fixed at an amount equal to one hundred thirty (130) per cent of the water charges for any such real property, to be billed and paid simultaneously with such water charges and to bear like penalties for nonpayment thereof, and bills shall be rendered on the basis of said rate on and after October 1, 2019.

3. Sewer rents applicable to premises outside city limits. Effective immediately, premises located outside the city limits using the sewer system of the city shall be charged therefor an amount equal to one hundred (100) per cent of the flat water rate that would have been applicable to the premises if the premises were located within the city limits, and shall be subject to all of the provisions and conditions of Article IV of Chapter 25 of the Code of Ordinances.

   On and after July 1, 1976, the sewer rent for real properties located outside of city limits is hereby fixed at an amount equal to one hundred twenty-six (126) per cent of the water charge that would be charged to each such parcel of property if it were located within city limits, computed upon the basis of the amount of water actually used or consumed upon each such parcel as recorded by water meters installed for that purpose, or estimated to have been used or consumed if no meter reading is available. Penalties for nonpayment of such sewer rents shall be imposed in the same manner and at the same rate as within city limits.

   On and after October 1, 1979, the sewer rent for real properties located outside of city limits is hereby fixed at an amount equal to one hundred twelve (112) per cent of the water charge that would be charged to each such parcel of property if it were located within city limits, computed upon the basis of the amount of water actually used or consumed upon each such parcel as recorded by water meters installed for that purpose, or estimated to have been used or consumed if no meter reading is available, and bills shall be rendered on the basis of said rate on and after January 1, 1980. Penalties for nonpayment of such sewer rents shall be imposed in the same manner and at the same rate as within city limits.

4. Exclusion of sewer rents for water used for lawn sprinkling. Anything contained in this section to the contrary notwithstanding, on and after July 1, 1976, water which is used for lawn sprinkling and which is properly measured by a duly installed separate water meter and which does not enter the city's sewer system, shall be excluded in computing the sewer

rent or charge to be billed to the owner of such premises, and no sewer rent or charge shall be payable by reason of the use of such separately metered water.

(c) *Payment and enforcement of sewer rents.* Said sewer rents or charges shall be payable, collectible and enforceable in the manner provided by law for the payment, collection and enforcement of water charges, and shall be and become a lien upon the real property served by the sewer system of the City of Long Beach when the said sewer rents or charges are billed and entered on the records of the city; and such liens are and shall be prior and superior to every other lien or claim except a lien of an existing tax, water charge or local assessment.

(d) *Sewer fund.* The revenues derived from the sewer rentals imposed hereunder, including penalties and interest thereon, shall be kept in a separate and distinct fund to be known as the sewer fund. Such fund shall be used for the payment of the cost of the management, maintenance, operation and repair of the sewer system, the cost of administering and enforcing the provisions of this section and the cost of collection of the sewer rents or charges imposed pursuant to the provisions of this section, and any surplus in such fund shall be used for the payment of the interest and amortization on any debt which has been or shall be incurred for the construction of intercepting sewers and sewage treatment and disposal works, and for the enlargement, replacement, or addition of intercepting sewers or sewage treatment works.

However, such funds shall not be used for the extension of sewers to serve unsewered areas.

(L.L. No. 5, 1950, § 1; L.L. No. 4, 1953, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L.L. No. 5, 1965, § 1; L.L. No. 9, 1971, § 1; L.L. No. 5, 1974, § 1; L.L. No. 2, 1975, § 1; L.L. No. 4, 1976, §§ 1, 2; L.L. No. 5, 1976, §§ 1--3; L.L. No. 7, 1978, § 1; L.L. No. 3, 1979, § 1; L.L. No. 5, 1982, § 1; L.L. No. 3-1989, § 1; L.L. No 2/2016, § 1; L.L. No 1/2018, § 1; L.L. II/2019, 05-21-2019)

Sec. 122-a. [Utility tax.]

1. *Tax on the furnishing of utility services.* Pursuant to the authority granted by section twenty-b of the General City Law of the State of New York, a tax equal to one percentum of its gross income for the period from July first, nineteen hundred thirty-seven, to June thirtieth, nineteen hundred forty-seven, is hereby imposed upon every utility doing business in the City of Long Beach, which is subject to the supervision of the state department of public service, except motor carriers or brokers subject to such supervision under article three-b of the Public Service Law and a tax equal to one percentum of its gross operating income is hereby imposed for the same period upon every other utility doing business in the City of Long Beach, which taxes shall have application only within the territorial limits of the City of Long Beach and shall be in addition to any and all other taxes and fees imposed by any other provision of law for the same period. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the City of Long Beach, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

[a] *Notwithstanding provisions of section one hereof, the provisions of local law number three of the laws of nineteen hundred thirty-seven as the same has been heretofore amended from time to time and as the same is hereby further amended shall continue to be in force and effect after June thirtieth, nineteen hundred forty-seven, provided that there be enacted into law by the State of New York enabling legislation authorizing the imposition of taxes and utilities during such extended period.

***Editor's note:** Local Law No. 2 of 1946, at section 2, is amendatory of this section; however, it was not expressed in the amendatory local law at which point the amendment should be inserted. Therefore, the amendment was inserted at this point at the editor's discretion.

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2. *Deposit of Revenues.* The revenues resulting from the imposition of taxes authorized by this section 122-a shall be paid into the treasury of the City of Long Beach and shall be credited to and deposited in the general fund of the said city.

3. *Application of law.* The tax imposed pursuant to this local law [section] shall have application only within the territorial limits of the City of Long Beach and shall be in addition to any and all other taxes. This local law [section] shall not authorize the imposition of a tax on any transaction originating or consummated outside of the territorial limits of the City of Long Beach, notwithstanding that some act be necessarily performed with respect to such transaction within the limits of the City of Long Beach.

4. *Collection by treasurer.* Every utility subject to tax hereunder shall file, on or before September twenty-fifth, December twenty-fifth, March twenty-fifth, and June twenty-fifth, a return for the three calendar months preceding each such return date including any period for which the tax imposed hereby or by any amendment hereof is effective (and on or before July twenty-fifth, nineteen hundred forty, a return for the preceding calendar month), each of which returns shall state the gross income or gross operating income for the period covered by each such return. Returns shall be filed with the treasurer of the City of Long Beach on a form to be furnished by him for such purpose and shall contain such other data, information or matter as the treasurer may require to be included therein. Notwithstanding the foregoing provisions of this section, any utility whose average gross income or average gross operating income, as the case may be, for the aforesaid three months' periods is less than fifteen hundred dollars, may file its returns for such periods on June twenty-fifth, nineteen hundred thirty-nine, June twenty-fifth, nineteen hundred forty, June twenty-fifth, nineteen hundred forty-one, and June twenty-fifth, nineteen hundred forty-two, respectively. The treasurer of the City of Long Beach, in order to insure payment of the tax imposed, may require at any time a further or supplemental return, which shall contain any data that may be specified by the treasurer of the City of Long Beach. Every return shall have annexed thereto an affidavit of the head of the utility making the same, or of the owner or of the co-partner thereof, or of a principal officer of the corporation, if such business be conducted by a corporation, to the effect that the statements contained therein are true.

5. *When tax payable.* Such tax shall be due and payable at the time of filing the

return, or, if a return is not filed when due, on the last day on which the return is required to be filed.

6. *Procedure on filing unsatisfactory return.* In case any return filed pursuant to this section shall be insufficient or unsatisfactory to the city council, and if a corrected or sufficient return is not filed within twenty days after the same is required by notice from the city council, or if no return is made for any period, the city council shall determine the amount of tax due from such information as it is able to obtain, and, if necessary, may estimate the tax on the basis of external indices or otherwise. The city council shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply to the city council for a hearing, or unless the city council, of its own motion, shall reduce the same. After such hearing, the city council shall give notice of its decision to the person liable for the tax. The decision of the city council may be reviewed by certiorari, if application therefor is made within thirty days after the giving of notice of such decision. An order of certiorari shall not be granted unless the amount of any tax sought to be reviewed, with penalties thereon, if any, shall be first deposited with the city treasurer and an undertaking filed with it, in such amount and with such sureties as a justice of the supreme court shall approve, to the effect that, if such order be dismissed or the tax confirmed, the applicant for the order will pay all costs and charges which may accrue in the prosecution of the certiorari proceeding, or at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, penalties, costs and charges aforesaid, in which event, the applicant shall not be required to pay such tax and penalties as a condition precedent to the granting of such order.

7. *Recovery of tax.* The same remedies shall be available for the recovery of any tax or penalty imposed by this local law [section] as are available for the recovery of other taxes and penalties imposed by [the] charter of the City of Long Beach, as amended.

8. *Notice by mailing.* Any notice authorized or required under the provisions of this local law [section] may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the last return filed by him under this local law [section], or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time, which is determined according to the provisions of this local law [section] by the giving of notice, shall commence to run from the date of mailing of such notice.

9. *Penalty for failure to pay or file return.* Any person failing to file a return or corrected return, or to pay any tax or any portion thereof, within the time required by this section shall be subject to a penalty of five percentum of the amount of tax due, plus one percentum of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due; but the city, if satisfied that the delay was excusable, may remit all or any portion of such penalty. If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof, and the city council or the court shall determine that such tax or penalty or any

portion thereof was erroneously or illegally collected, the city treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the city council. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the city council as hereinbefore provided, unless the city council, after a hearing as hereinbefore provided, or of its own motion, shall have reduced the tax or penalty or it shall have been established in a certiorari proceeding that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this article deposited to the credit of the City of Long Beach in the special account created pursuant to the provisions of this local law [section], with the approval of the city council. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the city council may receive additional evidence with respect thereto. After making its determination, the city council shall give notice thereof to the person interested, and he shall be entitled to a certiorari order to review such determination, subject to the provisions hereinbefore contained relating to the granting of such an order.

10. *Tax not chargeable to customer.* The tax imposed by this section shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others, but shall constitute a part of the operating costs of such utility.

11. *Enforcement of tax.* Whenever any person shall fail to pay any tax or penalty imposed by this section, the corporation counsel shall, upon the request of the city council, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the city treasurer. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by section one hundred eighty-six-b of the Tax Law is made a lien.

12. *Council may make rules.* In the administration of this section the city council shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his powers and the performance of his duties, and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his official duty under this section, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

13. *Secrecy provisions.* Except in accordance with the judicial order as otherwise provided by law, it shall be unlawful for the city treasurer or any officer, agent, clerk or employee of the City of Long Beach to divulge or make known in any manner the amount of gross income or gross operating income, or any particulars set forth or disclosed in any return under this section. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City of Long Beach in an action or proceeding under the provisions of this section, or on behalf of the state tax commission in an action or proceeding under the provisions of the Tax Law of the State of New York, or on behalf of any party to any action or proceeding under the provisions of this section when the returns or facts shown thereby are directly involved in

such action or proceeding, in either of which events, the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this section, together with any relevant information which in the opinion of the city council may assist in the collection of such delinquent taxes; or the inspection by the corporation counsel or other legal representatives of the City of Long Beach of the return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action has been instituted in accordance with the provisions of this section.

Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding six months, or both, and if the offender be an officer, agent, clerk or employee of the City of Long Beach, he shall be dismissed from office, and shall be incapable of holding any office or employment in the City of Long Beach for a period of five years thereafter.

Notwithstanding any provisions of this section, the city treasurer may exchange with the chief fiscal officer of any other city in the State of New York information contained in returns filed under this section, provided such other city grants similar privileges to the City of Long Beach, and provided such information is to be used for tax purposes only, and the city treasurer shall, upon request, furnish the state tax commission with any information contained in such returns.

14. *Definitions.* As used in this section,

(a) The word "utility" includes every person subject to the supervision of either division of the state department of public service, except persons engaged in the business of operating or leasing sleeping and parlor railroad cars or of operating railroads other than street surface, rapid transit, subway and elevated railroads, and also includes every person (whether or not such person is subject to such supervision) who sells gas, electricity, steam, water, refrigeration, telephony or telegraphy, delivered through mains, pipes or wires, or furnishes gas, electric, steam, water, refrigerator, telephone or telegraph service, by means of mains, pipes or wires; regardless of whether such activities are the main business of such person or are only incidental thereto, or of whether use is made of the public streets;

(b) The word "person" means persons, corporations, companies, associations, joint-stock associations, co-partnerships, estates, assignee of rents, any person acting in a fiduciary capacity, or any other entity, and persons, their assignees, lessees, trustees or receivers, appointed by any court whatsoever, or by any other means, except the state, municipalities, political and civil subdivisions of the state or municipality, and public districts;

(c) The words "gross income" mean and include receipts received in or by reason of any sale, conditional or otherwise, (except sales hereinafter

referred to with respect to which it is provided that profits from the sale shall be included in gross income) made or service rendered for ultimate consumption or use by the purchaser in the City of Long Beach, including cash, credits and property of any kind or nature (whether or not such sale is made or such service is rendered for profit), without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or services or other costs, interest or discount paid, or any other expense whatsoever; also profits from the sale of securities; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profit from the sale of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made); also receipts from interest, dividends, and royalties, derived from sources within the City of Long Beach other than such as are received from a corporation a majority of whose voting stock is owned by the taxpaying utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof, and also profits from any transaction (except sales for resale and rentals) within the City of Long Beach whatsoever; and

(d) The words "gross operating income" mean and include receipts in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephony or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigeration, telephone or telegraph service in the City of Long Beach, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid, or any other expenses whatsoever.

(L.L. No. 3, 1937, §§ 1--14; L.L. No. 1, 1938, §§ 1--14; L.L. No. 5, 1940, §§ 1--14; L.L. No. 1, 1941, §§ 1, 2; L.L. No. 2, 1942, § 1; L.L. No. 5, 1944, § 1; L.L. No. 2, 1945, § 1; L.L. No. 2, 1946, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L.L. No. 2, 1983, § 1)

Sec. 122-a. [Utility tax.]

ARTICLE 7. NONPROPERTY TAXES

Sec. 123. Food and drink sales taxes.

1. *Definitions.* When used in this local law [section], the following terms shall mean:

   (a) Person. An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

   (b) Customer or purchaser. A person who purchases food or drink or to whom are rendered services, the receipts from which are taxable under this local law [section].

   (c) Receipt. The amount of the sale price of any food or drink taxable under this local law [section] valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts, and including also any cover, minimum, entertainment or other charge made to patrons or customers.

   (d) Sale, selling or purchase. Any transfer of title or possession or both, exchange or barter, license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this local law [section] for a consideration or any agreement therefor.

   (e) Vendor. A person making sales of property or services, the receipts from which are taxed by this local law [section].

2. *Imposition of tax.*

   (a) On and after the first day of July, 1971, there is hereby imposed and there shall be paid a tax of three per cent upon the receipts from every sale such as herein described, made in or by restaurants, taverns or other establishments in this city, or by caterers. Such tax shall be paid upon the receipts from every sale of beer, wine or other alcoholic beverages or any other drink of any nature, or from every sale of food and drink of any nature or of food alone, when sold in or by restaurants, taverns or other establishments in this city, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers:

      (1) In all instances where the sale is for consumption on the premises where sold;

      (2) In those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink; and

(3) In those instances where the sale is for consumption off the premises of the vendor, except where food (other than sandwiches) or drink or both are[:]

(A) Sold in an unheated state and,

(B) Are of a type commonly sold for consumption off the premises and in the same form and condition, quantities and packaging, in establishments which are food stores other than those principally engaged in selling foods prepared and ready to be eaten.

(b) The tax imposed by this section shall not apply to:

(1) Food or drink which is sold to an air line for consumption while in flight;

(2) Food or drink sold to a student of a nursery school, kindergarten, elementary or secondary school at a restaurant or cafeteria located on the premises of such a school, or food or drink, other than beer, wine or other alcoholic beverages, sold at a restaurant, tavern or other establishment located on the premises of a college, university or a school (other than a nursery school, kindergarten, elementary or secondary school) to a student enrolled therein who purchases such food or drink under a contractual arrangement whereby the student does not pay cash at the time he is served, provided the school, college or university described in this subparagraph is operated by an exempt organization described in subdivision (a) of section eleven hundred sixteen of the Tax Law, or is created, incorporated, registered, or licensed by the State Legislature or pursuant to the Education Law or the regulations of the Commissioner of Education, or is incorporated by the Regents of the University of the State of New York or with their consent or the consent of the Commissioner of Education as provided in section two hundred sixteen of the Education Law.

(3) Food or drink sold through coin-operated vending machines at ten cents ($0.10) or less, provided the vendor is primarily engaged in making such sales and maintains records satisfactory to the state tax commission.

3. *Transitional provisions.* The taxes imposed under this local law [section] shall be paid upon all sales made and services rendered on or after the first day of August, nineteen hundred sixty-five although made on or rendered under a prior contract.

4. *Exempt organizations.*

(a) Except as otherwise provided in this section, any sale by or to any of the following shall not be subject to the tax imposed under this local law [section]:

(1) The State of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created

pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;

(2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;

(3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons; and

(4) Any corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

(b) Nothing in this section shall exempt:

(1) Retail sales of tangible personal property by any shop or store operated by an organization described in subparagraph (4) of paragraph (a) of this subdivision, or

(2) Sales of food or drink in or by a restaurant, tavern or other establishment operated by an organization described in subparagraphs (1) or (4) of paragraph (a) of this subdivision, other than sales exempt under paragraph (b) of subdivision two of this local law [section].

from the taxes imposed hereunder, unless the purchaser is an organization exempt under this section.

(L.L. No. II, 1969, § 3)

5. *Territorial limitations.* The tax imposed by this local law [section] shall apply only within the territorial limits of the City of Long Beach.

6. *Administration and collection.* The tax imposed by this local law [section] shall be administered and collected by the state tax commission in the same manner as the taxes imposed under article twenty-eight of the Tax Law of the State of New York are administered and collected by such commission. All of the provisions of said article twenty-eight relating to or applicable to the administration and collection of the taxes imposed by that article shall apply to the taxes imposed by this local law [section], including but not limited to sections eleven hundred one, eleven hundred eleven, and eleven hundred thirty-one through eleven hundred

forty-seven, with the same force and effect as if those provisions had been incorporated in full into this local law [section], except as otherwise provided by section twelve hundred fifty of the Tax Law.

7. *Disposition of revenues.* Net collections distributed to this city by the state tax commission pursuant to section twelve hundred sixty-one of the Tax Law of the State of New York shall be paid into the treasury of the city, shall be credited to and deposited in the general fund thereof, and shall be available for any city purpose. Expenditures from the proceeds of the tax imposed by this local law [section] shall not be considered as part of the cost of government within the meaning of any limitation on expenditures contained in any general, special or local law applicable to this city.

8. *Construction and enforcement.* This local law [section] shall be construed and enforced in conformity with articles twenty-eight and twenty-nine of the Tax Law of the State of New York, pursuant to which the same is enacted.

9. *Separability.* If any provision of this local law [section] or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law [section] but shall be confined in its operation to the provision thereof directly involved in the controversy in which such judgment shall have been rendered and the application of such provision to other persons or circumstances shall not be affected thereby.

10. *Effective date.* This local law [section] shall take effect on first day of August, 1965, except that certificates of registration may be filed with the state tax commission and certificates of authority to collect tax may be issued by the state tax commission prior to said date.

(L.L. No. 3, 1965; L.L. No. 2, 1967, § 1; L.L. No. 2, 1969, §§ 1--3; L.L. No. 4, 1971, § 1; L.L. No. 3, 1973, § 1)

Sec. 124. Hotel occupancy tax.

1. *Definitions.* When used in this local law [section], the following terms shall mean:

   (a) Person. An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

   (b) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boardinghouse or club, whether or not meals are served.

   (c) Occupancy. The use or possession, or the right to the use or possession, of any room in a hotel.

   (d) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

   (e) Permanent resident. Any occupant of any room or rooms in a hotel for at least ninety consecutive days shall be considered a permanent resident

with regard to the period of such occupancy.

(f) Rent. The consideration received for occupancy valued in money, whether received in money or otherwise.

(g) Room. Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

2. *Imposition of tax.* On and after the first day of August nineteen hundred sixty-five, there is hereby imposed and there shall be paid a tax of three (3) percent upon the rent for every occupancy of a room or rooms in a hotel in this city, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where the rent is not more than at the rate of two dollars per day.

3. *Transitional provisions.* The tax imposed by this local law [section] shall be paid upon any occupancy on and after the first day of August, nineteen hundred sixty-five although such occupancy is pursuant to a prior contract, lease or other arrangement. Where rent is paid on a weekly, monthly or other term basis, the rent shall be subject to the tax imposed by this local law [section] to the extent that it covers any period on and after the first day of August, nineteen hundred sixty-five, and such rent shall be apportioned on the basis of the ratio of the number of days falling within said period to the total number of days covered thereby.

4. *Exempt organizations.*

(a) Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this local law [section]:

(1) The State of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;

(2) The United States of America, or any of its agencies and instrumentalities, insofar as it is immune from taxation;

(3) The United Nations or any international organization of which the United States of America is a member; and

(4) Any corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(b) Where any organization described in paragraph (4) subdivision (a) of this section carries on its activities in furtherance of the purposes for which it was organized, in premises in which, as part of said activities, it operates a hotel, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

5. *Territorial limitations.* The tax imposed by this local law [section] shall apply only within the territorial limits of the City of Long Beach, except that any establishment located partially within this city and partially within a town or towns and receiving any services or utilities provided by this city shall be deemed to be wholly within the city for the purposes of the tax.

6. *Administration and collection.* The tax imposed by this local law [section] shall be administered and collected by the state tax commission in the same manner as the taxes imposed under article twenty-eight of the Tax Law of the State of New York are administered and collected by such commission. All of the provisions of said article twenty-eight relating to or applicable to the administration and collection of the taxes imposed by that article shall apply to the taxes imposed by this local law [section] including but not limited to sections eleven hundred one, eleven hundred eleven and eleven hundred thirty-one through eleven hundred forty-seven, with the same force and effect as if those provisions had been incorporated in full into this local law [section] except as otherwise provided in section twelve hundred fifty of the Tax Law.

7. *Disposition of revenues.* Net collections distributed to this city by the state tax commission pursuant to section twelve hundred sixty-one of the Tax Law of the State of New York shall be paid into the treasury of the city, shall be credited to and deposited in the general fund thereof, and shall be available for any city purpose. Expenditures from the proceeds of the tax imposed by this local law [section] shall not be considered as part of the cost of government within the meaning of any limitation on expenditures contained in any general, special or local law applicable to this city.

8. *Construction and enforcement.* This local law [section] shall be construed and enforced in conformity with articles twenty-eight and twenty-nine of the Tax Law of the State of New York, pursuant to which the same is enacted.

9. *Separability.* If any provision of this local law [section] or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law [section] but shall be confined in its operation to the provision thereof directly involved in the controversy in which such judgment shall have been rendered and the application of such provision to other persons or circumstances shall not be affected thereby.

10. *Effective date.* This local law [section] shall take effect on the first day of August, nineteen hundred sixty-five, except that certificates of registration may be filed with the state tax commission and certificates of authority to collect tax may be issued by the state tax commission prior to said date.

(L.L. No. 4, 1965; L.L. No. 2, 1969, §§ 4, 5)

Sec. 124. Hotel occupancy tax.

ARTICLE 8. CITY ELECTIONS; GENERAL; SPECIAL; HOW CONDUCTED

Sec. 125. City elections.

A general municipal election for the choice of a city judge shall be held on the first Tuesday after the first Monday in November in the year that a city judge's term will expire, and for the choice of three council members on the first Tuesday after the first Monday in November in every second year, in the odd-numbered years. All other elections held under the provisions of this charter, except primary elections, shall be known as special municipal elections.

(L. 1922, Ch. 635, § 125; L.L. No. 1, 1933, § 1; L.L. No. 5, 1943, § 10; L.L. No. III/2021, 2021)

Editor's note: It should be noted that L.L. No. 6, 1974 amended the election procedure for councilmen. See § 70(2) of this Charter.

Secs. 126, 127. Reserved.

Editor's note: At the request of the city, the editor has deleted §§ 126, 127, pertaining to the initial election conducted under the provisions of this charter, which sections were derived from Laws 1934, Ch. 635.

Sec. 128. Reserved.

Editor's note: L.L. No. III/2021, 2021 repealed section 128 in its entirety. Former section 128 pertained to General city elections, how conducted and derived from L. 1922, Ch. 635, § 128; L. 1943, Ch. 710, § 469.

Sec. 129. City one election district.

The entire city shall constitute one election district until some further division be made by resolution adopted by the council or pursuant to the election law.

(L. 1922, Ch. 635, § 129)

Sec. 130. Reserved.

Editor's note: L.L. No. III/2021, 2021 repealed section 130 in its entirety. Former section 130 pertained to Canvass of the vote at regular city elections and derived from L. 1922, Ch. 635, § 130; L.L. No. 5, 1943, §§ 11, 12; L.L. No. 2, 1947, § 5.

ARTICLE 9. DEPARTMENT OF CITY PLANNING AND DEVELOPMENT*

***Editor's note:** L.L. No. 6 of 1975, adopted June 17, 1975, amended the charter by adding Art. 9, §§ 131--135, as herein set out.

Sec. 131. Department of city planning and development; director of planning.

There shall be a department of city planning and development, the head of which shall be the director of planning and development, who shall be appointed by and serve at the pleasure of the city manager. Such director shall be a person experienced in planning and planning administration and techniques, and shall meet minimum qualifications of professional and administrative education and experience.

(L.L. No. 6, 1975, § 1)

Sec. 132. Rules; employees.

The director of planning shall adopt rules of procedure for the conduct of the department, subject to the approval of the city manager. Within the limits of the appropriation made by the common council of the City of Long Beach, he shall, with prior approval of the city manager, employ such city planners, engineers, architects, assistants and clerical help as may be necessary in the performance of the duties of such department, and shall utilize the services of any department, or employees, as designated by the city manager to aid and assist in the performance of the duties of the department.

(L.L. No. 6, 1975, § 1)

Sec. 133. Duties of the department.

It shall be the duty of the department of the city planning and development under the general supervision of its director:

(a) To advise and report to the city manager, to the common council of the City of Long Beach, and to such other departments of city government with respect to any matter relating to physical development of the city, so that future development of the City of Long Beach will be physically harmonious, economically sound and socially beneficial with due regard to aesthetic and ecological considerations.

(b) To perform such services in connection with neighborhood development programs, or any services required to be carried out under any Urban Renewal Plan or Federal Block Grant Programs.

(c) To perform such administrative duties as are set forth herein and such others as may be assigned to said department from time to time by the city manager or the council of the City of Long Beach.

(d) To study characteristics and trends of economic activities, population density, land use, zoning, environmental resources, transportation and transportation facilities, roads and highways, public utilities, services and facilities, parks and recreation areas, parking, community appearance, public buildings, water supply and sewage disposal.

(e) To make such studies and recommendations and plans relating to the physical development of the city as may be directed by the city manager or by the council.

(f) To make studies for the preparation and the formulation of a comprehensive master plan for the City of Long Beach, and recommend such plan for adoption to the city manager and the city council. Upon receipt of such recommendation, the city council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt such plan by resolution with or without amendment.

(g) To inquire into, report and recommend to the city manager any necessary and/or desirable changes in the zoning laws of the City of Long Beach.

(h) To prepare, upon request of the city manager, a new city-wide zoning ordinance for the City of Long Beach.

(i) To prepare for and recommend for adoption an official map of the City of Long Beach.

(j) To maintain such records and information as to all of the foregoing, for the use of all departments and officials of the city government.

(k) To review all site plans for multiple dwellings and transmit its approval or disapproval to the building department.

(l) To have such other and further powers and duties as the city council may from time to time confer upon it by ordinance.

(L.L. No. 6, 1975, § 1)

Sec. 134. Duties of director.

The director of planning and development shall have the following powers and duties in addition to any duties and powers set forth in this article to be performed by the department:

(a) To consult with the planning advisory board and attend at meetings of such board.

(b) To advise the city manager on any matters affecting the physical development of the city.

(c) To review and make recommendations with respect to proposed council action implementing a comprehensive master plan, and amendments thereof.

(d) To participate in the preparation and revision of the capital improvement program of the City of Long Beach and submit an annual report to the city manager not less than one hundred twenty days prior to the beginning of

each fiscal year, together with a list of recommended capital improvements, necessary or desirable for the best interest, growth and welfare of the City of Long Beach.

(e) Nothing herein contained shall be deemed to prevent the appointment of the director of the department of planning and development to the position of director of urban renewal or of any federal program involving block grants.

(L.L. No. 6, 1975, § 1)

Sec. 135. Matters referred to director of department of planning and development.

Before adopting final plans, or before making a recommendation to the council of the City of Long Beach, on any proposed acquisition of land, right-of-way for street or roadway or sewer lines or for sale of land, or for a major change in designated use of land, the department, official, board or other agency of City of Long Beach having jurisdiction to act shall refer the proposal to the director of the department of planning and development for a report and his recommendations with respect thereto. Such recommendations made shall take into account, among such other considerations, the criterions set forth in this article, the relation of the proposal to policies of development of the City of Long Beach and to the master plan of the city. The director shall render such report in writing on any such matter no later than thirty days after receipt of such proposal. If no report is rendered within such period of time, the department, official, board or other agency having jurisdiction to act may do so without such report.

(L.L. No. 6, 1975, § 1)

[Secs. 136--139. Reserved.]

ARTICLE 9A. ZONING BOARD OF APPEALS

Sec. 140. Composition, appointments; term of office; vacancies.

Following the initial establishment of the City's Zoning Board of Appeals and subsequent to its members serving their initial staggered terms, it is the intent of this local law to establish a collaborative process with checks and balances by which the City Manager and the City Council appoint and remove members of the Zoning Board of Appeals. The City Council finds that it is in the City's best interests to establish an appointment process which is designed to fill vacancies and reduce holdover appointments to the extent practicable.

The City's Zoning Board of Appeals shall consist of seven (7) members. Each member shall be appointed by the City Manager, subject to the City Council's approval. Members shall receive such salary as is fixed by the City Council. The term of office of such members shall be three (3) years. An appointment to a vacancy occurring prior to the expiration of a member's term shall be for the remainder of the unexpired term. Any member may be removed by the City Manager in accordance with applicable law, subject to the City Council's approval. At least forty-five (45) days prior to the expiration of any given member's term, the City Manager shall present to the City Council candidates to fill said vacancies. In the event any vacancy is not filled by the end of that forty-five (45) day period, the City Council may make an appointment to fill said vacancy.

(L.L. No. 4-1989, § 1; L.L. No. II-2004, § 1; L.L. No. V-2022)

[Secs. 141--159. Reserved.]

ARTICLE 10. FIRE DEPARTMENT

Sec. 160. Fire commissioners.

The city manager may appoint a fire commissioner and a deputy fire commissioner. The board of fire commissioners shall be composed of a fire commissioner, a deputy fire commissioner, a member of the city council designated by the city council, the chief of the Long Beach Volunteer Fire Department, and the captain in charge of the paid department. The fire commissioner shall be the chairman of the fire board.

(L. 1935, Ch. 1635, § 160; L.L. No. 2, 1956, § 1; L.L. No. 1, 1962, § 2)

Sec. 161. Powers and duties of commissioners.

The fire commissioners shall have general supervision over the fire departments of the city, whether volunteer or paid, or partly volunteer and partly paid. They shall from time to time cause to be examined all fire apparatus and equipment and determine whether or not such apparatus and equipment is adequate for the proper protection of the city. They shall from time to time make recommendations to the various fire departments and to the council. If upon inspection hose or other equipment be found defective the commissioners shall order the same replaced. No hose or other equipment shall be used after the same has been condemned by the commissioners.

(L. 1922, Ch. 635, § 161)

Sec. 162. New equipment.

The fire commissioners may recommend to the council the purchase of fire houses, fire engines, hose and other fire equipment, a fire alarm system and all other apparatus for use in extinguishing fires, and the council may appropriate and raise by taxation money for such purpose.

(L. 1922, Ch. 635, § 162)

Sec. 163. Officers; members; volunteers.

The fire force of the city shall consist of volunteers until the council shall by ordinance provide for a paid or partly paid department. The council may, upon the recommendation of the commissioners, employ expert fire fighters and instructors to work with the volunteers and fire officers of experience; or the council may, upon the recommendation of the commissioners enter into agreements with the various volunteer fire departments for the adequate protection of the city against fire.

Sec. 164. Further powers of commissioners.

Such commissioners shall have such other powers as may be conferred upon them by ordinance not inconsistent herewith or with the laws of the state.

Sec. 165. [Firemen's benevolent association.]

Exempt Firemen's Benevolent Association of the City of Long Beach, Inc., a domestic membership corporation of the City of Long Beach, in the Town of Hempstead, County of Nassau, shall collect and there shall be paid to it all tax imposed by section one hundred thirty-three of the Insurance Law, for fire department use and benefit, upon premiums for insurance against loss or damage by fire covering property situated within the City of Long Beach, in the Town of Hempstead, Nassau County, New York, and within any duly organized territory in which the fire department of said city may be obligated to render fire protection, with the exception of the territory of the Lido and Point Lookout fire district in such town and county. The officer of such corporation designated by its by-laws to collect and receive the aforesaid tax shall have the same powers as provided by law for the treasurer of a fire department with respect to such collection and receipt. Such corporation shall also be entitled to receive a share of the tax imposed by section one hundred forty-nine-a of the Insurance Law, based upon the business written in the territory with respect to which it is entitled to collect and receive the tax under section one hundred thirty-three of the Insurance Law. Such taxes shall only be used for the care and relief of disabled or indigent volunteer and exempt firemen and their families.

(L. 1939, Ch. 205, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1)

[Secs. 166--169. Reserved.]

ARTICLE 11. DEPARTMENT OF PUBLIC WORKS

Sec. 170. Commissioner.

There shall be a department of public works and a commissioner thereof who may be appointed as hereinafter provided.

Sec. 171. Mayor; acting commissioner.

The mayor shall be the commissioner of public works, with all the powers and duties of such office, as herein provided, and as provided by the laws of the state, until the council determines, as hereinafter provided, that a commissioner shall be appointed by the mayor.

Sec. 172. Deputy commissioner.

The mayor shall appoint a deputy commissioner of public works at a salary to be fixed by council.

Sec. 173. When commissioner shall be appointed.

When the population of the city and the duties of the department justify, in the opinion of the council, the appointment of a commissioner of public works, other than the mayor, who will devote his entire time to the duties of the office, the council may, by resolution passed unanimously, at a regular meeting, or at a special meeting called for that purpose, at which all members are present, authorize the appointment of a separate commissioner of public works. Upon the passage of such resolution the mayor shall appoint a commissioner of public works, who shall have all the powers and duties herein provided or which may be provided by law. The compensation of such commissioner shall be fixed by the council.

Sec. 174. Qualifications; term of office; vacancies; compensation.

No person shall be eligible to appointment as such commissioner of public works who is not a citizen of the United States. The commissioner may be removed by the city manager at any time without cause assigned. The compensation of the commissioner shall be fixed by the council. The commissioner shall appoint, subject to the approval of the city manager, such deputies, clerks and assistants as may be necessary and authorized by the council. The city engineer shall, under the supervision of the commissioner, or, if he himself is the commissioner, under the supervision of the city manager, have charge of and do all the civil engineering for the department of public works. The commissioner shall prescribe the duties of such deputies, clerks and other assistants.

(L. 1922, Ch. 635; L.L. No. 5, 1943, § 13)

Sec. 175. Accounts and records.

The commissioner shall cause to be kept proper accounts and a record of the

proceedings of the department. All accounts, records and proceedings of the department shall be public.

(L. 1922, Ch. 635; L.L. No. 5, 1943, § 13)

Sec. 176. General powers and duties.

The powers and duties of the commissioner, which shall be exercised and performed as herein provided, and in accordance with the general ordinances of the city, shall be as follows:

(a) He shall have power and it shall be his duty to do all paving and repaving, cleaning and sprinkling of all boulevards, streets, alleys, public squares, parks, or places and bridges and bridge approaches;

(b) Shall establish grades for all streets, alleys and other public places, and when once established by him such grades shall not be changed unless by a four-fifths vote of the council;

(c) Shall have charge of the construction, maintenance and repair of all water mains, public sewers, drains, culverts, sidewalks, canals, docks, wharves, moles, seawalls, bulkheads, breakwaters and dykes and the filling in and grading of all land under water, meadow and low land, and on request of the council, any other work of public improvement;

(d) Shall have charge of the maintenance and repair of all public buildings within the city limits;

(e) Shall provide all materials and supplies for the use of the department;

(f) Shall supervise the making of excavations in or under streets, alleys or other public places for ditches, trenches, tunnels, vaults and the like, the laying therein of pipes, wires, cables, conduits and the like, the erection of all poles in such streets, alleys or other public places, and the use thereof generally for purposes similar to those herein named, and shall supervise the backfilling of such excavations and the restoration to normal condition of such streets, alleys or other public places;

(g) Shall be charged with the duty of issuing permits for the entry upon or onto any street, alley or other public place by any person, firm, corporation or city department for the purpose of doing any of the things referred to in paragraph "f", or for the purpose of the construction, repair or moving of buildings, or for any other purpose whereby the use thereof by the public shall be obstructed, and no person, firm, corporation, or department shall enter upon or occupy such street, alley or other public place for any of such purposes, except at such times and in such manner as the commissioner shall prescribe;

(h) Shall decide as between two or more persons, firms, corporations or departments, or any of them, the order in which work proposed to be done by them at or about the same time in streets, alleys or other public places shall be performed;

(i) Shall prescribe uniform standard rules governing the doing of any kind of work in streets, alleys or other public places by any person, firm,

corporation or department, the entry thereon for the purpose and the proper completion of such work, such rules and all amendments thereto to be subject to the approval of the council; provided, that such rules shall not be subject to amendment after the first day of March nor prior to the first day of November in any year;

(j) Shall make proper charges to be prescribed by the rules of the department for the supervision herein referred to and the inspections necessary in connection therewith; provided, that all charges to other departments for all materials and work shall be on the basis of the actual cost thereof;

(k) Shall prepare plans for and make all connections with water transmission and distribution mains and lateral and main sewers, and shall prepare assessment rolls for lateral sewers;

(l) Shall have charge of the procurement, purification and distribution of water and the transmission, treatment and disposal of sewage, as authorized by the council;

(m) Shall supervise the collection and disposal of all garbage in the manner provided by the council; and with the approval of the council construct, operate and maintain, within or without the city, an ice plant or a plant for the disposal of garbage and dispose of the by-products therefrom;

(n) Shall keep official records of plans, maps and plats of the city for the department; and make and publish an official map of the city;

(o) May, with the approval of the council, in the name of the city, take and hold, by purchase, gift, devise, bequest or otherwise, such real and personal property as may be needful for carrying out the intents and purposes for which it is established;

(p) Shall recommend to the council the institution of condemnation proceedings whenever, in his judgment, private property should be taken in the name of the city for the purposes of the department;

(q) May, with the approval of the council, sell and convey or lease lands whenever required by the interests of the city;

(r) May establish all reasonable rules and regulations to protect the rights and property vested in the city and under the control of the department;

(s) Make, with the approval of the council, contracts to carry out the objects and purposes of the department as herein provided;

(t) May construct, maintain and repair with city employees any pavements, water mains, public sewers, lateral sewers, drains, culverts, sidewalks, canals, docks, wharves, moles, seawalls, bulkheads, breakwaters, dykes and, on request of the council, any other work of public improvement. If bids of private contractors are solicited for any such work, and if such bids are rejected, the commissioner shall, on request of the council, undertake such work with city employees;

(u) Shall have such powers as are herein prescribed or may be necessary for the proper discharge of his duties; and

(v) Shall have the power to promulgate rules and regulations with regard to the installation, maintenance, repair, removal, testing, supervision and control of all water meters in the City of Long Beach.

(L. 1922, Ch. 635, § 176; L.L. No. 4, 1975, § 1; L.L. No. 1, 1977, § 1)

Sec. 177. Public improvements.

Whenever the council shall order any work of public improvement, it shall cause notice to be given forthwith to the commissioner of public works, who shall proceed to do such work or to make contracts therefor, subject to the approval of the council.

(L. 1922, Ch. 635, § 177)

[Secs. 178, 179. Reserved.]

Editor's note: Section 4 of Local Law No. 3, 1974, repealed former §§ 178 and 179, pertaining to the application of funds and the commissioner's annual report to the city council. Said sections were derived unchanged from Laws of 1922, Chapter 635, §§ 178 and 179.

Sec. 180. Complaints.

The commissioner shall promptly investigate and make report to the council concerning all complaints referred by the council to the commissioner relative to the administration of the department.

(L. 1922, Ch. 635, § 180)

Sec. 181. Legislation by council.

The council shall enact such ordinances as may be necessary to carry out the provisions of this chapter.

(L. 1922, Ch. 635, § 181)

[Secs. 182--184. Reserved.]

ARTICLE 12. CITY COURT

Sec. 185. City court; establishment.

The city court, an inferior court having civil and criminal jurisdiction prescribed by this act, is hereby established in the City of Long Beach. Such court shall not be a court of record. The city judge shall be the judge of the court.

(L. 1922, Ch. 635, § 185)

Sec. 185-a. Effect of Uniform City Court Act.

Whenever any provision or provisions of this Article 12 of this Charter shall conflict or be at variance with any provision or provisions of the Uniform City Court Act of the State of New York, the provision or provisions of said Uniform City Court Act shall prevail and shall supersede all such conflicting or varying provisions of this Article 12.

(L.L. No. 3, 1982, § 1)

Sec. 186. General jurisdiction and powers of city court and city judge.

Except as otherwise provided by this act and by statute, the city court shall have jurisdiction of the same actions and proceedings, civil, criminal and of a criminal nature, as a justice of the peace of a town and his court, and a police justice of a village and his court, and the city judge shall have the powers and perform the duties of such justices in such actions and proceedings and otherwise in the administration of justice. Except as otherwise provided herein and by statute, the city shall be regarded as a town or as a village, as the case may be, for the purpose of applying a statutory provision referring to a town or to a village and applicable to matters governed by this article.

(L. 1922, Ch. 635, § 186; L. 1932, Ch. 270, § 1)

Sec. 187. Jurisdiction in civil actions and proceedings.

Except as limited by section one hundred eighty-eight, the city court shall have jurisdiction in the following civil actions and proceedings:

1. An action to recover damages upon or for breach of contract, express or implied, when the sum claimed does not exceed six thousand dollars;
2. An action to recover damages for or on account of personal injury or an injury to property, where the sum claimed does not exceed six thousand dollars;
3. An action for a fine or penalty not exceeding six thousand dollars;
4. An action upon a judgment not exceeding six thousand dollars rendered in such court or in any court of the state of local jurisdiction not being a court of record;
5. An action to recover one or more chattels, with or without damages for the taking, withholding or detention thereof, where the value of the

chattels as stated in the affidavit of the plaintiff or, if there be no requisition to replevy, the value as stated in the complaint, does not exceed the sum of six thousand dollars;

6. To render judgment upon the confession of the defendant, where the amount confessed does not exceed the sum of six thousand dollars;

7. The city court has jurisdiction in proceedings for the summary removal of persons from real property as prescribed in article eighty-three of the Civil Practice Act, and such proceedings shall be taken in accordance with the provisions of said article so far as they are applicable to courts of justices of the peace;

8. An action upon a surety bond taken in such court or by a justice of the peace;

9. An action to foreclose a lien upon a chattel for a sum of money in any case where the amount of the lien does not exceed six thousand dollars;

10. An action to enforce a mechanic's lien on real property in the manner provided in the lien law for the enforcement of a mechanic's lien in a court not of record, where the amount of the lien as determined by the court does not exceed six thousand dollars;

11. An action for damages for fraud in the sale, purchase or exchange of personal property, if the damages claimed do not exceed six thousand dollars;

12. An action commenced by attachment pursuant to the provisions of the Civil Practice Act, if the debt or damages claimed do not exceed six thousand dollars;

13. An action against an executor or administrator as such, where the amount of the claim does not exceed the sum of six thousand dollars and the claim has been duly presented to the executor or administrator and rejected by him.

(L. 1952, Ch. 434, § 1; L. 1954, Ch. 324, § 1; L. 1957, Ch. 581, § 1)

Sec. 188. Jurisdiction where city is a party.

The city court shall have jurisdiction of an action or proceeding by or against the city subject to the limitations of this act relating to the jurisdiction of such court in actions or proceedings by or against individuals.

Sec. 189. Certain actions not cognizable.

The city court shall not take cognizance of a civil action in either of the following cases:

1. Where the title to real property comes in question as prescribed in article eight of the Justice Court Act, and when such question arises the pleadings and practice shall be the same as in court of justices of the peace of towns;

2. Where the action is to recover damages for false imprisonment, libel, slander, criminal conversation, seduction or malicious prosecution;

3. Where, in a matter of account, the sum total of all the accounts of both parties, proved to the satisfaction of the court, exceeds six thousand dollars;

4. Where the action is brought against an executor or an administrator as such, except where the amount of the claim does not exceed the sum of three thousand dollars and the claim has been duly presented to the executor or administrator and rejected by him;

5. Where neither the plaintiff nor the defendant, nor one or more of the plaintiffs or defendants, resides in the city. For the purpose of this limitation, however, a corporation having an office or agency established within the city for the transaction of its business shall be deemed a resident of the city.

(L. 1952, Ch. 434, § 2; L. 1954, Ch. 324, § 2)

Sec. 190. Enumerated powers of city judge.

The city judge[:]

1. May take and certify oaths, affidavits and acknowledgements within the city and shall be entitled to the same fees therefor as a justice of the peace;

2. May make and certify copies of papers, minutes, records and documents in his office, or of the city court, and transcripts from his docket, in the same manner as exemplifications of papers and records by a clerk of a court of record;

3. Shall render to the council from time to time as said council may require an account of all fines and fees and other sums collected in civil or criminal matters, the amount of such account when audited to be paid to the city treasurer;

4. Shall have an official seal of such design as may be prescribed by ordinance to be used by the city judge and city court clerk on any certificate which either is authorized to make;

5. May make, alter and amend rules of practice in relation to matters of which the city court or city judge has cognizance.

Sec. 191. Acting city judge.

The city manager shall appoint an acting city judge for a term of two (2) years, beginning on the first day of January in an even-numbered year and expiring on the last day of December of the next succeeding odd-numbered year. The person appointed must be eligible to the office of city judge, and shall take, subscribe and file with the city clerk the constitutional oath of office before entering upon his duties. Any vacancy which may occur during the term of the acting city judge shall be filled by appointment by the city manager for the remainder of the unexpired term.

(L.L. No. 1, 1986, § 1)

Sec. 192. Powers and duties of acting city judge.

The acting city judge shall have the same powers and duties as herein provided for the city judge.

Sec. 193. Reciprocal and exclusive powers of city judge and acting city judge.

Proceedings under any process returned during the absence or disability of the city judge or a vacancy in his office shall be had in the first instance before the acting city judge, and may be continued to a determination before him unless the city judge assumes jurisdiction. The fact that either judge has acted in a matter shall not of itself deprive the other of jurisdiction therein, except that after a trial or hearing involving the taking of oral testimony has begun it shall be conducted to a determination by the same judge.

Sec. 194. City court clerk.

If authorized by the council there may be a clerk of the city court to be appointed by the mayor. Such clerk shall perform such duties and have such powers as the city judge may prescribe in addition to those hereinafter enumerated. Such clerk may be the stenographer of the court or he may hold any other office in the city designated by the council. He may have power to issue a summons, subpoena and any other process issuable as a matter of course and not requiring an application upon affidavit or petition and to make an entry thereof in the judge's docket. He shall have power to certify copies of papers and documents filed with the city court or city judge, and records and minutes of such court or judge, and transcripts from the judge's docket with the same force and effect as if certified by the city judge. He shall be the custodian of such papers and records of the city court or city judge as the city judge may place in his charge. He may adjourn to a certain day and hour the proceedings upon a process or mandate returned in the absence of the city judge and acting city judge, or in their absence any other matter properly before the court for a hearing.

Sec. 195. Commencement of action.

An action must be commenced by the service of summons or by the voluntary joinder of issue by the parties; but for the purpose of saving a cause of action from the operation of the statute of limitations an attempt to commence an action is equivalent to the commencement thereof when the summons is issued by the clerk, provided that actual service thereof is made with due diligence.

Sec. 196. Requisites of summons.

The summons must be addressed to the defendant by name, or, if his name is unknown, by a fictitious name, and must summon him to appear before the clerk of the court within seven days from the date of service, exclusive of the date of service, and make answer to the complaint. If no written complaint is served with the summons, the plaintiff, or, in case of his inability to do so, the clerk, must endorse upon or attach to the

summons a brief statement of the nature and substance of the cause of action, and the summons must state the amount for which the plaintiff will take judgment if the defendant fails to appear and make answer. The address of the plaintiff must be stated on the summons. The summons must be subscribed and issued by the clerk of the court or by the plaintiff's attorney in his own name. When the summons is issued by the plaintiff's attorney, he must add to his signature his office and post office address.

(L. 1958, Ch. 526, § 1)

Sec. 197. Form of summons.

The summons must be in substantially the following form, the blanks being properly filled:

CITY COURT OF THE CITY OF LONG BEACH
NASSAU COUNTY, NEW YORK

_____
Plaintiff,

vs.

_____
Defendant.

To the above named defendant:

You are hereby summoned to appear in this action in the city court of the City of Long Beach, Nassau County, New York, before the clerk of the said court at his office in the City of Long Beach, within seven days after the service of this summons upon you, exclusive of the day of service, and to make answer to the complaint; and if you fail to make answer, judgment will be taken against you for the sum of $_____, with interest thereon from the _____ day of _____, 20_____, together with the costs of this action.

Dated, Long Beach, Nassau County, New York, the _____ day of _____, 20_____ or _____
Clerk.

_____
Attorney for the plaintiff,
(Office and post office address)

Plaintiff's address _____

(L. 1957, Ch. 924, § 1)

Sec. 198. Method of serving summonses, mandates and other processes.

The summonses, mandates and other processes of the court may be served within the County of Nassau in like manner as though issued out of the supreme court, anything in this act contained to the contrary, notwithstanding, provided that they shall not be served by publication.

(L. 1931, Ch. 345, § 1)

Sec. 199. Who may serve summons or precept; proof of service.

1. Personal service of summons or service of a precept in summary proceedings shall be made by a marshal or by any other person over the age of eighteen years and not a party to the action.

2. Proof of service shall be made by the certificate of the marshal or by the affidavit of the person by whom the service was made; and such certificate or affidavit shall be endorsed upon or annexed to the summons or precept.

3. Within two days after service, the summons, or the summons and complaint if the complaint was served with the summons must be filed with proof of service in the office of the clerk in the district where the action is pending.

Sec. 200. Endorsement upon summons for execution against the person.

If no verified complaint is served with the summons in an action where execution against the person may issue upon the judgment, the summons and the copy delivered to the defendant must bear an endorsement substantially in the following language: "Plaintiff claims defendant is liable to arrest and imprisonment in this case."

Sec. 201. Guardian ad litem.

When a guardian [ad litem] is necessary he must be appointed by the court as follows:

1. If the infant is plaintiff, the appointment must be made before the summons is issued, upon the application of the infant, if he is of the age of fourteen years or upwards; if under that age, upon the application of some relative or friend. The consent in writing of the guardian to be appointed and to be liable for costs if he fails in the action, must be filed with the clerk of the court.

2. After the filing of proof of service of the summons against an infant defendant, no other proceeding shall be taken in the action until a person has been appointed as his guardian [ad litem] for the purpose of the action. Upon the nomination of the defendant, the court must appoint a proper person for that purpose, but if the defendant neglects or refuses to nominate the court may, on application of the plaintiff, appoint any proper person as a guardian [ad litem] upon the filing of such person's written consent with the clerk. The guardian [ad litem] so appointed is not responsible for costs.

3. Where no guardian [ad litem] has been appointed, as in this section provided, the court shall, at any time before judgment, make such appointment. The guardian [ad litem] so appointed is not responsible for costs.

Sec. 202. Joinder of parties; interpleader.

1. Except as otherwise expressly provided in this act, all questions as to the joinder

of parties shall be determined by the provisions of law applicable to like cases in the supreme court.

2. No action shall be defeated by the nonjoinder or misjoinder of parties. The names of new parties may be added and the names of parties misjoined may be struck out, by order of the court, at any stage of the cause and upon such terms as justice may require.

3. Upon the application of the defendant in an action brought to recover upon a contract or to recover a chattel, the court may make an order of interpleader or an order joining adverse claimants as parties defendant, according to the provisions of law applicable to like cases in the supreme court.

Sec. 203. Prosecuting or defending as a poor person.

Except as otherwise expressly provided in this section or in the rules of the court, a person may obtain leave to prosecute or defend an action as a poor person and to have an attorney assigned to conduct his case, in accordance with the provisions of law applicable to like cases in the supreme court. The petition for such leave may be verified before the clerk of the court, and the certificate of the clerk that he has inquired into the facts of the case and that in his opinion the plaintiff has a prima facie cause of action or that the defendant has a prima facie defense, as the case may be, shall have the same force and effect as the certificate of an attorney.

Sec. 204. Grounds of arrest.

A defendant may be arrested in any case of which the court has jurisdiction and in which he might be arrested were the action brought in the supreme court.

Sec. 205. Pleadings; bills of particulars; special appearance.

Pleadings in actions may be oral or written, verified or unverified, except that the pleadings in an action to establish a mechanic's lien must be verified. Pleadings shall consist of complaint and answer and, when ordered, a reply.

1. When an action is commenced by service of a summons only, a statement of the nature and substance of the plaintiff's cause of action shall be endorsed upon or annexed to the summons.

2. Issue must be joined within the time limited by the summons, provided, however, that when the last day falls on Saturday the defendant may answer on the next business day.

3. If a written complaint is served with the summons a written answer must be filed; and if the complaint is verified, the answer must be verified; provided, however, that in an action where the amount claimed is one hundred dollars or less, the defendant, if he appears in person, may answer orally. When a defendant answers orally a statement of the nature and the substance of the answer shall be endorsed upon or annexed to the summons. The address of the defendant, or the office and post office address of his attorney, shall be endorsed upon the summons.

4. At any time before judgment, the court may direct the filing of a written

pleading, verified or unverified.

5. On or before the defendant's last day to answer, his time to move or answer may be extended by filing with the clerk a written stipulation of the parties, or by order of the court upon cause shown.

6. The original or a copy of a contract or other writing on which a cause of action or a defense or a counterclaim is founded may be filed with the pleading and shall be deemed a part of the pleading. Within three days after service of a written demand by either party, the adverse party shall file with the clerk the original or sworn copy of any such contract or other writing specified in such demand. If the paper is not duly filed, the court may order that it be filed and may exclude it from evidence if not filed accordingly.

7. The procedure for obtaining a copy of the items of an account, or a bill of particulars, shall be that prescribed in the Civil Practice Act and rules adopted pursuant thereto except that the periods of time prescribed by any rule of civil practice in relation thereto may be changed by rule of this court. The original of any bill of particulars, or items of an account, shall be filed with the clerk within the same time that service of a copy thereof must be made on the adverse party or his attorney.

8. For the purpose of raising a question not involving the merits of the action, a party may appear specially by filing with the clerk, on or before the last day for answering, a notice of special appearance stating the particular purpose for which he appears. In that event the case shall be set down for hearing, and the party thus appearing need not plead further until directed to do so by the court.

(L. 1936, Ch. 639, § 1)

Sec. 205-a. Examinations before trial.

Testimony taken by deposition during pendency of an action and before trial may be taken in any action of which the court has jurisdiction and in which it might be taken were the action brought in the supreme court.

(L. 1931, Ch. 345, § 2)

Sec. 206. Joinder and severance of causes of action.

The plaintiff may include in the same complaint any cause of action of which the court has jurisdiction to the end that all matters of difference between the respective parties may, so far as practicable, be determined in one action; but if it appears to the court that causes of action so joined should not be tried or disposed of together, the court may order them to be tried separately, or that the action be severed, and may make such other and further orders as may be necessary or expedient for the separate disposal thereof.

Sec. 207. Judgment by default.

If the defendant fails to answer within the prescribed time, judgment for the

plaintiff may be taken by default, without application to the court, in a case in which the complaint or the statement endorsed upon or annexed to the summons sets forth one or more causes of action upon which a judgment by default may thus be entered in an action in the supreme court.

In such a case, if the verified complaint has been filed and served with the summons, the clerk shall enter judgment forthwith; otherwise the clerk must at the plaintiff's request ascertain the amount due and enter judgment therefor in the manner prescribed for like cases in the supreme court. In all other cases where the defendant makes default in pleading the plaintiff can recover judgment only on application to the court and proof of his cause of action.

Sec. 208. Offer of judgment.

At the time of answering the defendant may file with the clerk a written offer to allow judgment to be taken against him for a sum of money or for property therein specified with costs. If there are two or more defendants, and the action can be severed, a like offer may be made by one or more of them against whom a separate judgment may be taken. If the plaintiff thereupon, before taking any other proceeding in the action, files with the clerk a written acceptance of the offer, the clerk must enter judgment accordingly. If an acceptance is not filed, the offer cannot be given in evidence upon the trial; but if the plaintiff fails to obtain a more favorable judgment, he cannot recover costs. Instead of making a written offer a defendant may deposit the amount of his offer with the clerk, if it be a sum of money, with like effect.

Sec. 209. Complaint; contents.

The complaint must state in a plain and concise manner the facts constituting the cause of action.

Sec. 210. Answer; contents.

The answer must contain:

1. A general or specific denial of each material allegation of the complaint intended to be controverted, or a denial of any knowledge or information thereof sufficient to form a belief. A denial must not be evasive, and unless the defendant intends in good faith to controvert all the allegations of the complaint or of a particular part thereof, the denial must be directed to the specific allegation intended to be controverted;

2. A plain and concise statement of any new matter constituting a defense or counterclaim;

3. When the judgment may determine the ultimate rights of two or more defendants as between themselves, a defendant must demand such a determination in his answer, which must be in writing. A copy of such answer must be served at least two days before trial, or at such other time as the court shall direct, upon each defendant to be affected by the determination or upon his attorney in the action.

Sec. 211. Counterclaim.

Except as otherwise provided in this act, a counterclaim and judgment thereon shall be governed by the provisions of law applicable to like cases in the supreme court.

Sec. 212. Joinder and severance of counterclaims.

There may be included in the counterclaim any claims or causes of action mentioned in this act, against the plaintiff, or, in a proper case, against the person whom he represents, and in favor of one or more defendants between whom and the plaintiff a separate judgment may be had in the action; but if it appears to the court that any of the claims or causes of action so joined should not be tried or disposed of together, the court may order that they be tried separately, and may make such other and further orders as may be necessary or expedient for the separate disposal thereof. If it appears to the court that any claim or cause of action alleged by way of counterclaim should not be tried or disposed of in the pending action, the court may strike it out, without prejudice to the bringing of another action or proceeding.

Sec. 213. Amount recoverable on counterclaim.

A counterclaim may be interposed and judgment thereon in favor of the defendant may be rendered for any sum not to exceed six thousand dollars exclusive of interest and costs.

(L. 1931, Ch. 345, § 3; L. 1954, Ch. 324, § 3; L. 1957, Ch. 580, § 1)

Sec. 214. Reply to counterclaim.

A reply to a counterclaim is not necessary; but the court may order a written reply, verified or unverified, at any time before judgment. When no reply is filed, the allegations of the counterclaim shall be deemed denied, except as otherwise provided in this act.

Sec. 215. Objections to jurisdiction and to pleadings.

An objection that the court has no jurisdiction of the person of the defendant or no jurisdiction of the subject of the action may be taken by filing a notice of special appearance. All other objections which heretofore might have been taken by demurrer may be taken by motion. The notice of motion must specify the grounds thereof and the particular defects or objections upon which the moving party relies.

Sec. 216. Objections which may be taken by answer.

An objection to the sufficiency of the complaint, or an objection which, if sustained, disposes of the action without putting the plaintiff to his proof, may be taken by alleging it as a defense in the answer in lieu of a motion, and on application of either party it must be disposed of before the trial. When an objection is thus taken, the answer must specify the particular objection or defect upon which the defendant relies.

Sec. 217. Disposal of objections.

1. If the court overrules a defendant's objection taken by motion, the court must allow him to answer, and as a condition thereof may impose costs.

2. If the court sustains an objection taken by a motion or answer upon the ground that the pleading is insufficient, the court must allow it to be amended, and as a condition thereof may impose costs. If the party fails to amend, the defective pleading or part of pleading may be struck out.

Sec. 218. Judgment upon the pleadings.

If either party is entitled to judgment upon the pleadings, the court may, on motion at any time after issue joined, give judgment accordingly.

Sec. 219. Signature to instrument; when deemed genuine.

A signature to a written instrument which is pleaded shall be taken as admitted unless the party sought to be charged thereby files with the clerk, within eight days after joinder of issue, a specific denial of the genuineness of the signature and a demand that it be proved. Such denial and demand by a defendant may be included in his answer.

Sec. 219-a. Ownership and control of a vehicle; when deemed admitted.

In an action for negligence arising from the ownership, operation or control of a vehicle required to be registered or licensed pursuant to the provisions of the Vehicle and Traffic Law, where the endorsement or statement of the cause of action on the summons states the registration or license number of such vehicle, the plaintiff need not prove upon the trial the ownership, operation or control of such vehicle by the defendant and the same shall be deemed admitted by the party sought to be charged therewith unless the answer contains a specific denial that the defendant was the owner of or engaged in the operation or control of such vehicle at the time of the alleged negligence. In the event that such ownership, operation or control are unreasonably or unjustifiably denied by the defendant and the same be satisfactorily established by the plaintiff upon the trial of the action, the court may allow the plaintiff, if the judgment or verdict be in his favor, in its discretion, additional costs not to exceed the sum of twenty-five dollars.

(L. 1949, Ch. 621, § 1)

Sec. 219-b. Ownership, operation or control of building; when deemed admitted.

In an action for negligence, arising out of the ownership, operation or control of any building, dwelling or tenement house, where the endorsement or statement of the cause of action on the summons states the full address of the building, dwelling or tenement house and the date when the acts complained of took place, the plaintiff need not prove upon the trial, the ownership, operation and control of such building, dwelling or tenement house by the defendant, and the ownership, operation and control of those portions of the premises used in common by the tenants shall be deemed admitted by the party sought to be charged therewith, unless specifically denied in the answer. In the

event that such ownership, operation or control are unreasonably or unjustifiably denied by the defendant and the same be satisfactorily established by the plaintiff upon the trial of the action the court may allow the plaintiff, if the judgment or verdict be in his favor, in its discretion, additional costs not to exceed the sum of twenty-five dollars.

(L. 1963, Ch. 324, § 1)

Sec. 220. Construction and amendments of pleadings, judgment and process.

1. The allegations of a pleading must be liberally construed for the purpose of doing substantial justice between the parties.
2. At any stage of the cause the court must allow amendment of any summons, process, mandate, pleading, order or judgment, including a petition, precept, answer and final order in a summary proceeding, if substantial justice will be promoted thereby, and as a condition thereof may impose such terms as may be just.
3. Upon the like terms the court may direct that a return made by a marshal or other officer be amended in matter of form, either before or after judgment.

Sec. 221. Order that issues be tried unnecessary in action against corporation.

In an action against a corporation, an order directing that the issues presented by the pleadings be tried shall not be required.

Sec. 222. How cause brought on for trial; notice of trial.

Upon joinder of issue the clerk shall place the case upon a general calendar. Where either party appears in person, the clerk shall fix a date for trial not less than five nor more than eight days after joinder of issue, and shall immediately notify the parties by mail of such date. Unless otherwise provided by the rules, where both parties appear by attorney either party may serve a notice on the other fixing a date for trial not less than five nor more than eight days after the service of such notice, and shall file such notice, with proof of service thereof, with the clerk who shall thereupon place the case on the calendar for trial. When a jury trial is demanded and no day is fixed for the attendance of a jury within the time limited as above provided, the clerk shall set the case down for trial at the earliest practicable date on which a jury will be in attendance, and shall notify the parties or their attorneys by mail of such date.

Sec. 223. Adjournment of trial.

The trial of an action may be adjourned:

1. By the court for good cause shown and upon such terms and conditions as the court may deem just;
2. By stipulation of the parties, to be filed with the clerk, or upon request of the plaintiff where the defendant has made default or upon consent of the parties in open court.

Sec. 224. Subpoena.

A subpoena requiring a witness to appear and testify on the trial of an action or a special proceeding shall be issued on the demand of either party by the clerk of the court; but when a party is represented by an attorney, the latter may issue the subpoena and shall subscribe thereto his name and his office and post office address. The subpoena may be served anywhere in the City of Long Beach and may require the witness to bring with him any book or paper relating to the merits of the action.

Sec. 225. Service of subpoena.

A subpoena may be served by any person over the age of eighteen years by delivering a copy thereof to the witness personally and by paying or tendering to him a fee of fifty cents for one day's attendance at court. No mileage need be paid or tendered to the witness.

Sec. 226. Attachment against defaulting witness.

1. Upon satisfactory proof by affidavit or otherwise that a person duly subpoenaed has refused or neglected to obey the subpoena, and upon the oath of the party in whose behalf the person was subpoenaed, or his attorney, that the testimony of such person is material, the court must issue a warrant of attachment directed generally to any marshal, to compel the attendance of such person.

2. Such a warrant of attachment must be executed in the same manner as an order of arrest. The fees of the marshal for serving it must be paid by the person against whom it is issued unless he shows a just cause or a reasonable excuse for his omission to attend, in which case the party procuring the warrant must pay them and add them to his costs, if he recover any.

Sec. 227. Liability of defaulting witness.

A person duly subpoenaed who neglects or refuses to obey the subpoena is liable to the party in whose behalf he was subpoenaed for all damages which the party sustains by reason of the neglect or refusal and fifty dollars in addition thereto, and is subject to any fine or punishment which may be imposed in accordance with the provisions of law governing contempts punishable civilly.

Sec. 228. Practice generally.

1. Except as in this act provided or otherwise provided by the statute, the practice, pleadings, forms and procedure by and before the city judge and city court and on appeal shall conform, as nearly as may be, to the practice, pleadings, forms, and procedure existing at the time in like causes in the supreme court, any statutory limitations, heretofore enacted, to the contrary notwithstanding.

2. With respect to appeals in civil actions and proceedings of the city court, the provisions of section two hundred thirty-eight of the city court [*sic*] charter shall be applicable.

3. The provisions of the Civil Practice Act, or the Civil Practice Law and Rules, governing discovery and disclosure shall apply to all civil proceedings in the city

court.

(L. 1931, Ch. 345, § 3; L. 1957, Ch. 749, § 1; L. 1963, Ch. 323, § 1)

Sec. 228-a. Executions.

An execution may be issued upon a judgment when the judgment creditor does not appear by attorney, by the clerk of the city court or by the attorney for the judgment creditor when he appears by attorney, within six years thereafter, the execution being directed to a marshal, or by the attorney for the judgment creditor after filing a transcript of the judgment with the county clerk as provided in section two hundred twenty-eight-b of this charter, the execution being directed to the sheriff. But no execution shall issue out of the city court after a transcript has been issued, and no transcript shall be issued while an execution of the city court remains outstanding, except a transcript showing that the judgment has been modified, vacated or set aside. When the execution is issued to a marshal the prospective fees of the county clerk and sheriff must be omitted. An execution issued to the sheriff upon a judgment in an action to establish a mechanic's lien shall authorize and direct the sheriff to sell the right, title and interest of the owner of the premises upon which the lien set forth in the complaint existed when the notice of lien was filed.

(L. 1956, Ch. 396, § 1)

Sec. 229. Costs, generally.

In addition to fees and disbursements the following sums as costs shall be allowed to a party if the pleadings in the case are written and if such party has appeared by an attorney and counsellor-at-law, and may be allowed in the discretion of the court if the pleadings are oral and such party has appeared by an attorney and counsellor-at-law:

1. For all proceedings before trial, including judgment for the plaintiff upon default, in case the amount of recovery be fifty dollars or less, to the plaintiff, five dollars; if the recovery be more than fifty dollars, and less than two hundred dollars, ten dollars; if the recovery be more than two hundred dollars, and less than one thousand dollars, twenty-five dollars; and if the recovery be more than one thousand dollars, fifty dollars;

2. On a judgment for plaintiff, otherwise than upon default, an additional sum equal to ten percentum of the recovery, not to exceed in all seventy-five dollars;

3. If judgment of nonsuit be rendered for defendant without trial, to the defendant ten dollars;

4. If judgment be rendered for defendant after trial, to the defendant, twenty-five dollars; and an additional sum when the amount demanded in the complaint exceeds one thousand dollars in the discretion of the court, not exceeding in all fifty dollars;

5. In special proceedings to recover real property for nonpayment of rent where there was personal service of the petition, or where the tenant has voluntarily appeared in such proceeding, and the landlord has recovered a money judgment, the court in its discretion may award costs and

disbursements to the landlord as specified in subsections one and two hereof;

6. In special proceedings to recover real property where the tenant is a holdover, the court in its discretion may award costs to the prevailing party not to exceed fifteen dollars plus disbursements.

(L. 1954, Ch. 325, § 1; L. 1960, Ch. 571, § 1; L. 1962, Ch. 311, § 53)

Sec. 229-a. Fees payable to the clerk.

There shall be paid to the clerk the following sums as court fees in an action, and there shall be no others, and all such fees shall be prepaid before the service shall be performed:

1. Upon the filing of a summons or a precept in summary proceedings, three dollars;
2. On filing notice of appeal, five dollars;
3. For entry of a judgment, one dollar;
4. For filing a satisfaction of judgment, fifty cents;
5. For issuing a transcript of judgment or certificate of satisfaction of judgment, one dollar;
6. For issuing an order of arrest, a warrant of attachment, a requisition to replevy or a warrant of seizure, three dollars;
7. For certifying a copy of a paper on file in the clerk's office, one dollar;
8. On a trial by a jury of six, six dollars; by a jury of twelve, ten dollars; to be paid by the party demanding the jury at the time of the demand;
9. For issuance of a warrant of dispossess, three dollars;
10. For filing of a petition and order for the appointment of a guardian ad litem, three dollars;
11. For filing of an order of compromise in the settlement of an infant's action, without commencing an action, three dollars.

(L. 1949, Ch. 622, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L. 1957, Ch. 748, § 3; L. 1960, Ch. 532, § 1)

Sec. 230. Costs in replevin.

The amounts comprising additional costs, as provided in this chapter [*sic;* probably should be "article"], shall, in an action for the recovery of chattels or a chattel, be estimated upon the value thereof as assessed by the court or jury.

Sec. 231. Costs upon establishment of counterclaim.

A defendant who recovers judgment upon a counterclaim, or obtains a judgment for the possession or recovery of chattels sued for, is entitled, in addition to other costs allowed to him by this chapter [*sic;* probably should be "article"] in a civil action, to

recover a sum equal to ten per centum of the amount recovered by him or of the value of such chattels, not to exceed in all fifty dollars.

Sec. 232. No costs or fees allowed in action upon judgment of city court in certain cases.

No costs or fees shall be allowed to the plaintiff in an action brought upon a judgment of the city court if such action be brought within five years after the recovery of the judgment.

Sec. 233. Costs upon a motion.

Costs upon a motion in a civil action or proceeding, not exceeding five dollars, may be awarded either absolutely or to abide the event, to the successful party, in the discretion of the court or judge, to be included in a judgment in the manner provided by this chapter [*sic;* probably should be "article"] in the case of the recovery of fees and disbursements upon a motion.

Sec. 234. Costs upon the taking of depositions.

When the testimony of a witness is taken by commission or under an order to take depositions and the testimony is used on the trial, the successful party, if he filed interrogatories or cross-interrogatories or was present at the taking of the testimony, shall be entitled to the sum of five dollars as costs, in addition to sums paid to the commissioner or officer taking the depositions, not exceeding three dollars for each day actually and necessarily spent in the taking of such depositions.

Sec. 235. Taxation of costs.

Costs, including fees and disbursements, shall be taxed by the judge upon application of the party entitled thereto. They may be taxed without notice to the adverse party, but in that event shall be retaxed upon a notice of not less than two days.

Sec. 236. Security for costs, generally.

The defendant in an action in the city court may require security for costs when the plaintiff, at the time of the commencement of the action, was a nonresident of the state or a foreign corporation; but the defendant cannot require such security of any plaintiff unless he is entitled to require it of all the plaintiffs. Where security for costs is required to be given under the provision of this or the next section the court shall make an order requiring the plaintiff, within a time therein specified, either to pay into the court a sum not exceeding one hundred dollars to be applied to the payment of costs, if any, awarded against him, or to file with the court an undertaking in a like sum for the payment of such costs, with a surety or sureties to be approved by the city court. Such order shall have the effect of staying all proceedings on the part of the plaintiff, except to review or vacate the order, until the payment of the required sum or the filing of the undertaking, or to move for the adjournment of a trial or hearing in the action to a time beyond the date specified in the order for furnishing such security; but the court may, for cause shown, by written order, extend the time therefor. The form of the undertaking and effect of the plaintiff's failure to comply with the order shall, except as herein otherwise

provided, be governed by the provisions of title three of chapter twenty-one of the Code of Civil Procedure.

Sec. 237. Security for costs where plaintiff sues in a representative capacity.

In an action brought by an executor or administrator in his representative capacity, or by the trustee of an express trust, or by an assignee for the benefit of creditors, or by a trustee in bankruptcy, or by an infant whose guardian ad litem has not given security for costs, or by the committee of an incompetent person, the court may, in its discretion, upon notice, require plaintiff to give security for costs.

Sec. 238. Appeals.

Appeals from any judgment, order or final order of the city court, City of Long Beach, in or relating to a civil action or proceeding shall be taken to the supreme court of the judicial department in which the city court, City of Long Beach, is situated, in the manner hereinafter prescribed: [*sic*]

(L. 1931, Ch. 345, § 2; L. 1956, Ch. 320, § 1; L. 1957, Ch. 748, § 1)

Sec. 238-a. Judgments and orders appealable.

A party aggrieved may appeal to the supreme court, except when the judgment or order or final order was rendered or made upon his default, from:

1. A judgment in an action;
2. A final order in a special proceeding;
3. An order granting or denying a new trial;
4. An order granting or denying a motion to open a default and to vacate a judgment or final order entered thereon;
5. An order granting or denying a motion to vacate a judgment or a final order upon the ground that the judgment was rendered or the final order made without service of summons or process;
6. An order granting or denying a motion to discharge a defendant from arrest, or an order granting or denying a motion to vacate or modify a warrant of attachment or a requisition to replevy or a warrant of seizure;
7. An order denying a motion for summary judgment;
8. Any other order, provided that leave to appeal be granted either by the judge who made the order, upon motion returnable within eight days after the entering of the said order and the service of a copy thereof, or by a justice of the appellate court in the event of the denial of such leave in the city court, City of Long Beach;
9. Where leave to appeal is granted pursuant to subdivision eight of this section, such appeal must be taken within ten days after the entry of the order granting permission to appeal.

(L. 1957, Ch. 748, § 2)

Sec. 238-b. Review of intermediate orders.

An appeal taken from a judgment or final order brings up for review an intermediate order which is specified in the notice of appeal and necessarily affects the judgment or final order and has not already been reviewed upon a separate appeal. An order made after judgment or final order is deemed to have been made in the action or special proceeding within the meaning of this section.

(L. 1957, Ch. 748, § 2)

Sec. 238-c. Time to appeal.

An appeal must be taken within twenty days after entry of the judgment or order or final order except as limited in section two hundred thirty-eight-a; provided, however, that when the appellant has appeared by attorney such appeal must be taken within twenty days after the service upon such attorney of a copy of such judgment, order or final order and written notice of entry thereof. The right to review an intermediate order is not affected by the expiration of the time within which a separate appeal therefrom might have been taken.

(L. 1957, Ch. 748, § 2)

Sec. 238-d. Notice of appeal.

An appeal is taken by filing with the clerk of the court where the judgment, order or final order is entered, a written notice of appeal, subscribed by the appellant or by his attorney, together with proof of service upon the attorney for the respondent if the respondent has appeared by an attorney; and, if the respondent has not appeared by an attorney, the clerk shall give notice thereof to the respondent by mailing such notice to the respondent's last known address.

(L. 1957, Ch. 748, § 2)

Sec. 238-e. Supplying omissions, amendments.

Defects or omissions in the proceedings necessary to perfect an appeal or to stay an execution of the judgment, final order or order appealed from may be supplied, or amendments of such proceedings may be granted, by the appellate court in like manner as though the appeal was taken from a judgment, final order or order of the supreme court.

(L. 1957, Ch. 748, § 2)

Sec. 238-f. Stay of execution pending appeal.

1. The appellant may stay execution by filing with the clerk and serving, as hereinafter provided, upon the attorney for the respondent, if the respondent has appeared by an attorney, a written undertaking executed by one or more sureties, to the effect that if the appeal is dismissed, or if judgment is rendered against the applicant in the appellate court and an execution issued thereon is

returned wholly or partly unsatisfied, the sureties will pay the amount of the judgment or the portion thereof remaining unsatisfied, and all costs and disbursements awarded against him on the appeal, not exceeding a sum specified in the undertaking which must be at least one hundred dollars, and not less than twice the amount of the judgment; or, if the judgment is for the recovery of a chattel, that the sureties will pay the value of the chattel together with costs and the damages, if any, awarded by the judgment and on appeal. If execution has been issued, the service upon the sheriff or marshal of a copy of the undertaking, certified by the clerk or accompanied by an affidavit showing that it is a copy thereof and that the original has been duly filed, stays further proceedings under the execution subject to the provisions of the section next following.

2. In lieu of an undertaking the appellant may stay execution by depositing with the clerk a sum of money equal to the amount of the judgment with interest thereon for one year, and fifty dollars in addition, provided notice of such deposit is served upon the attorney for the respondent if the respondent has appeared by an attorney.

(L. 1957, Ch. 748, § 2)

Sec. 238-g. Exception to sureties.

The respondent or his attorney may, within five days after notice by the clerk of the filing of the undertaking, serve upon the appellant or his attorney a written notice that he excepts to the sufficiency of the sureties. Within five days thereafter, the sureties, or other sureties in a new undertaking to the same effect, must justify on at least three days' notice, before the court in the district in which the judgment was rendered. The court must endorse upon the undertaking or a copy thereof its allowance or rejection of the sureties. If the sureties fail or refuse to justify after the service of the notice of exception, the respondent may proceed as if no undertaking had been executed.

(L. 1957, Ch. 748, § 1)

Sec. 238-h. Settlement of case and return on appeal.

1. When an appeal has been taken as herein prescribed, the stenographer's original transcript of minutes must be furnished to the clerk within ten days after the fees therefor have been paid. Immediately upon receiving such minutes the clerk shall cause notice of that fact to be sent to the attorney for the appellant, or to the appellant if he has not appeared by attorney. The appellant or his attorney shall then procure the case to be settled on a written notice of at least three days to the clerk and to the attorney for the respondent or to the respondent if he has not appeared by an attorney, returnable before the judge who tried the case. The clerk must thereupon make a return to the appellate court, which must contain the summons or precept, pleadings, evidence and judgment or final order and all other necessary papers and proceedings, and have annexed thereto the opinion of the court, if any, and the notice of appeal. The judge before whom the case was tried shall within five days from the date of the submission to him of the case on appeal, settle the case and endorse his settlement on the return. The clerk must thereupon cause the return to be filed with the clerk of the appellate court. After a judge is out of office he may settle the case in any action or proceeding

tried before him and may be compelled by the appellate court so to do.

2. Where no testimony was taken and a settlement of a case is not required, the return shall be made by the clerk forthwith upon filing the notice of appeal. Such return shall contain the judgment, order, or final order appealed from and all the original papers upon which the judgment, order or final order was rendered or made, duly authenticated by the certificate of the clerk having the custody thereof, or copies thereof duly certified by such clerk, and shall have annexed thereto the opinion of the court, if any, and the notice of appeal.

3. Upon an appeal from an order granting or denying a motion for a new trial, upon the ground of fraud or newly discovered evidence, the stenographer's minutes of the trial shall be included in the return of the clerk and the provisions of subdivision one of this section shall apply to such an appeal.

(L. 1957, Ch. 748, § 1)

Sec. 238-i. Death of party.

When a party dies before an appeal has been taken, or when a party to an appeal dies before the appeal is heard, the proceedings after his death shall be governed by the provisions applicable to similar cases in the supreme court, and an order substituting the proper representative of the decedent as a party may be made on application by the survivor or by such representative, on notice.

(L. 1957, Ch. 748, § 2)

Sec. 238-j. Remittitur and return of papers.

The judgment or order of the appellate court must be remitted for enforcement to the court below; and the clerk of the appellate court shall return to the clerk of the court from which the appeal was taken, all the papers upon which the appeal was heard.

(L. 1957, Ch. 748, § 2)

Sec. 238-k. Costs of appeal; amounts.

Costs upon an appeal may be awarded by the appellate court in its discretion, and if awarded shall be as follows:

1. To the appellant upon reversal, not more than thirty dollars.

2. To the respondent upon affirmance, not more than twenty-five dollars.

3. To either party upon modification, not more than twenty-five dollars.

(L. 1957, Ch. 748, § 2)

Sec. 238-l. Stenographer's fees.

In all cases of appeal from an order, final order or judgment, in any civil or criminal action or proceeding, where a transcript of the stenographer's minutes of the testimony given on trial or hearing becomes a necessary part of the return on appeal, the stenographer's fees for making up such transcript shall be ten cents for every one

hundred words, actual count, and shall be paid at the time of filing the notice of appeal in the first instance by the appellant, and be taxable by him as a disbursement on the appeal; provided, however, that in cases in which an appeal has been or shall be taken by the City of Long Beach or by any department, board or officer thereof, the stenographer, upon demand of the corporation counsel of such city, shall, within ten days, make up the transcript as herein provided, and furnish a copy of such transcript to the corporation counsel, and the stenographer's fees in such case shall be audited and paid by the proper fiscal officer of the City of Long Beach, out of the funds or appropriations applicable thereto.

(L. 1936, Ch. 130, § 1; L. 1939, Ch. 628, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L. 1957, Ch. 748, § 3)

Sec. 239. Trial by jury.

In a civil action, either party at the time of pleading or the plaintiff, within three days after joinder of issue may demand a trial by jury, and unless so demanded a jury trial is waived. The demand may be made in writing and filed with the clerk, or orally and endorsed upon the summons. In a special proceeding the demand may be made in open court on the return of the precept. The party demanding a trial by jury shall at the time of making said demand pay to the clerk the sum of five dollars. When the sum demanded in the complaint exceeds two hundred dollars, the party demanding trial by jury may require that twelve jurors be drawn to try the case. When demand is made for a jury of twelve, the party making such demand shall pay to the clerk the sum of ten dollars. In other cases the jury shall consist of six jurors as provided in the justice court act. If twelve jurors be demanded, twenty qualified jurors shall be summoned for the selection therefrom of the number demanded. A jury may be drawn from those summoned either by the city judge or by the city court clerk, if any, under his direction. Though a jury of twelve be demanded and the requisite number therefor summoned, the parties may by mutual consent elect to try the cause by a jury of six at any time before the taking of testimony has begun.

(L. 1949, Ch. 623, § 1)

Sec. 240. Direction of verdict; granting new trials and opening defaults.

The court may open defaults, and, in an action tried by a jury, direct a verdict, and may grant a new trial in an action or proceeding for any of the reasons specified in section nine hundred and ninety-nine, of the Code of Civil Procedure, upon such terms as may be just. A motion for a new trial upon the minutes must be made upon at least five days' notice and shall be heard within fifteen days after the entry of judgment.

Sec. 241. Trial jurors.

The City of Long Beach shall be regarded as a town for the purposes specified in article three of the judiciary law. The supervisor, the city clerk and the elective assessor of said city shall perform the duties prescribed in said article. A duplicate list of jurors selected by them shall be filed in the office of the clerk of said city and such office shall be deemed a town clerk's office for that purpose. The supervisor and clerk and elective assessor of said city shall meet at the clerk's office at the time provided by law and proceed to discharge the duties imposed upon them by the judiciary law and by this act,

and the list made by them shall constitute the list of persons to serve as trial jurors for the ensuing three years. The supervisor elected under this act and the clerk and the elective assessor of the city shall meet every third year thereafter for the same purpose and make and file a list so required of them. The clerk shall furnish to the city judge certified copies of all such lists and from the names of all such jurors in the city shall be drawn the trial jurors in actions or proceedings in the city court and before the city judge. Until the city judge shall be furnished with such list he shall use in drawing jurors in his court, or before him, the last list furnished to the police justice of the Village of Long Beach, but shall set aside any juror so drawn who is not a resident of the City of Long Beach.

Sec. 241-A. Jurors' fees.

A person notified to attend as a juror in the city court of the City of Long Beach is entitled to three dollars ($3.00) for attending and serving upon the trial of an action or the hearing of a special proceeding before a judge or acting judge of the city court.

(L.L. No. 4, 1959, § 1)

Sec. 242. Marshals.

A city marshal shall act as attendant upon the city court during its session, when required by the city judge, and shall exercise the same powers and duties, be entitled to the same fees and compensation and subject to the same liabilities as a constable in a town, all fees or compensation paid on account of services performed by him shall be the property of the city. The marshal shall receive no fees or commissions other than a stated compensation for his services as court attendant. His duties as court attendant shall be prescribed by the rules and regulations of the city judge and a violation of such rules and regulations shall constitute sufficient cause for his suspension or removal from office.

Sec. 243. Process; effect of certain words.

All process shall, in form, be the process of the city court and may be returnable either before the city court or to the city judge. The terms "city court" and "city judge" or their equivalents, may be used interchangeably in any process, pleading, petition, affidavit, paper, caption, record, order, judgment or verdict, without impairing the validity of any act done or step taken in an action or proceeding, if the matter to which the term refers was within the jurisdiction or cognizance of either the city court or city judge.

Sec. 244. Small claims defined.

The term "small claim" or "small claims" as used in this act shall mean and include any claim or cause of action or counterclaim within the jurisdiction of this court, except summary proceedings for the recovery of real property, where the amount claimed by the plaintiff or claimant or defendant, or the value of the property affected or of the right claimed does not exceed one hundred dollars, exclusive of interests and costs.

(L. 1954, Ch. 259, § 1; L.L. No. 1, 1957, § 1)

Sec. 245. Parts for the determination of small claims established.

The city judge shall assign the times and places for holding one or more parts of the court for the hearing of small claims as herein defined, and it shall be the duty of the city judge, from time to time, to make, alter and amend rules regulating the practice and procedure controlling the determination of such claims and to prescribe and furnish the forms for instituting the same. Such practice, procedure and forms shall differ from the practice, procedure and forms used in the court for other than small claims, notwithstanding any provision of law to the contrary. They shall constitute a simple, informal and inexpensive procedure for the prompt determination of such claims in accordance with the rules and principles of substantive law. The procedure established pursuant to this title [*sic*] shall not be exclusive of but shall be alternative to the procedure now or hereafter established with respect to actions commenced in the court by the service of a summons. No rule to be enacted pursuant to this title [*sic*] shall dispense with or interfere with the taking of stenographic minutes of any hearing of any small claim hereunder.

(L. 1954, Ch. 259, § 1; L.L. No. 1, 1957, § 1)

Sec. 246. Commencement of action upon small claims.

Small claims shall be commenced upon the payment by the claimant of a filing fee of one dollar, without the service of a summons, and, except by special order of the court, without the service of any pleading other than a statement of his cause of action by the claimant or someone in his behalf to the clerk or an assistant deputy clerk who shall reduce the same to a concise, written form and record it in a docket kept especially for such purpose. Such procedure shall provide for the sending of notice of such claim by registered mail with return receipt requested to the person complained against and for an early hearing upon and determination of such claim. The cost of sending such notice shall be in addition to the filing fee hereinbefore specified.

(L. 1954, Ch. 259, § 1; L.L. No. 1, 1957, § 1)

Sec. 247. When rules and practice of supreme court applicable.

The court shall conduct hearings upon small claims in such manner as to do substantial justice between the parties according to the rules of substantive law and shall not be bound by statutory provisions or rules of practice, procedure, pleading or evidence, except statutory provisions relating to privileged communications and except the provisions of section three hundred forty-seven of the Civil Practice Act. The provisions of the Civil Practice Act, the rules of civil practice, the provisions of this act and the rules of this court shall apply to claims brought under this title [*sic*] so far as the same can be made applicable and are not in conflict with the provisions of this title [*sic*]; in case of conflict, the provisions of this title [*sic*] shall control.

(L. 1954, Ch. 259, § 1; L.L. No. 1, 1957, § 1)

Sec. 248. Power to transfer small claims; remedies applicable.

The court shall have power to transfer any small claim or claims to any other part of the court upon such terms as the rules may provide, and proceed to hear the same according to the usual practice and procedure applicable to other parts of the court.

(L. 1954, Ch. 259, § 1; L.L. No. 1, 1957, § 1)

Sec. 249. Trial by jury; how obtained; discretionary costs.

A person commencing an action upon a small claim under this title [*sic*] shall be deemed to have waived a trial by jury, but if such action shall be removed to a regular part of the court, the plaintiff shall have the same right to claim a trial by jury as if such action had originally been begun in such part. Any party to such action, other than the plaintiff, prior to the day upon which he is notified to appear or answer, may file in the court where the action is pending a demand for a trial by jury and his affidavit that there are issues of fact in the action requiring such a trial, specifying the same and stating that such trial is desired and intended in good faith. Such demand and affidavit shall be accompanied with the jury fee required by law and an undertaking in the sum of fifty dollars in such form as may be approved by the rules payable to the other party or parties, conditioned upon the payment of any costs which may be entered against him in the said action or any appeal within thirty days after the entry thereof; or, in lieu of said undertaking, the sum of fifty dollars may be deposited with the clerk of the court and thereupon the clerk shall forthwith transmit such original papers or duly attested copies thereof as may be provided by the rules to the part of the court to which the action shall have been transferred and assigned and such part may require pleadings in such action as though it had been begun by the service of a summons and such action may be considered a preferred cause of action. In any small claim which may have been transferred to another part of the court, the court may award costs up to twenty-five dollars to the plaintiff if he prevails.

(L. 1954, Ch. 259, § 1; L.L. No. 1, 1957, § 1)

Sec. 249-a. Review.

A person commencing in action upon a small claim under this title [*sic*] shall be deemed to have waived all right to appeal, except that either party may appeal on the sole grounds that substantial justice has not been done between the parties according to the rules and principles of substantive law.

(L. 1954, Ch. 259, § 1; L.L. No. 1, 1957, § 1)

Sec. 249-b. Judgment obtained to be res adjudicata in certain cases.

A judgment obtained under this title [*sic*] may be pleaded as res adjudicata only as to the amount involved in the particular action and shall not otherwise be deemed an adjudication of any fact at issue or found therein in any other action or court.

(L. 1954, Ch. 259, § 1; L.L. No. 1, 1957, § 1)

Sec. 249-c. Procedure unavailable to corporations, associations and assignees.

No corporation, partnership or association and no assignee of any small claim shall institute an action or proceeding under this title.

(L. 1954, Ch. 259, § 1; L.L. No. 1, 1957, § 1)

ARTICLE 13. MISCELLANEOUS PROVISIONS

Sec. 250. General powers and duties of other city officers.

The powers and duties of all other city officers shall be such as are prescribed in this act, or when not so prescribed, as provided by ordinance of the council or by existing general laws applicable to such officers. The city and all its officers shall have all the powers granted cities and officers of cities of the third class. The powers herein enumerated are in addition to powers granted under general laws not inconsistent herewith and not in substitution for such powers.

Sec. 251. Violations.

Any person who shall knowingly violate any of the provisions of this charter, and any person who shall neglect or refuse to perform any duty enjoined upon him hereby shall be guilty of a misdemeanor.

Sec. 252. Delivery of books, papers and property to successors.

Whenever any officer shall resign or be removed from office or the term for which he shall have been elected or appointed shall expire, he shall upon demand deliver over to his successor in office all books, papers, moneys and effects in his custody as such officer or in any way pertaining to his office. Every person violating this provision shall be guilty of a misdemeanor and shall be punished accordingly. Every officer appointed or elected under this charter shall be deemed an officer within the meaning hereof.

Sec. 253. When bills against city shall be paid.

No bill or account against the city shall be audited or paid unless such bill or account shall be made out in items and properly dated, with an affidavit attached thereto by the person, or one of the persons or an officer of a corporation, presenting or claiming the same, that the items of such bill or account are correct, that the services and disbursements charged therein have been in fact rendered or paid, and that no part thereof has been paid or satisfied. The council board or department or officer shall cause to be entered upon its files or their books or minutes the amount claimed, the amount allowed, and the fund from which each amount allowed shall be paid. No action shall be brought upon any such bill or account within thirty days from the time the same was presented to the council officer or board authorized to audit the same.

Sec. 254. Village laws made applicable.

All special and general laws applicable to the Village of Long Beach not inconsistent herewith shall remain applicable to the City of Long Beach as though the same were incorporated specifically in this charter.

Sec. 255. Clearing and dredging of waters.

The city may widen, straighten, enlarge, clear from obstruction, dredge, deepen, embank and dike Wreck Lead, otherwise known as Reynolds Channel or Long Beach

Channel, or any part of the bay, ocean or other waters within the city. It may construct basins, slips, docks, or quays within the city, and the expense or any part of the expense of any work or improvement mentioned in this section may be paid by the city at large or by local assessment as the council shall determine.

(L. 1943, Ch. 710, § 255)

Sec. 256. Maintenance and repair of sidewalks, curbstones and gutters.

The owner or occupant of lands fronting or abutting on any street, highway, traveled road, public lane, alley or square, shall make, maintain and repair the sidewalk, curbstones and gutters adjoining his lands and shall keep such sidewalk, curbstones and gutter free and clear of and from snow, ice and all other obstructions. Such owner or occupant and each of them, shall be liable for any injury or damage by reason of omission, failure or negligence to make, maintain or repair such sidewalk, curbstone and gutter or to remove snow, ice or other obstructions therefrom, or for a violation or nonobservance of the ordinances relating to making, maintaining and repairing sidewalks, curbstones and gutters and the removal of snow, ice and other obstructions from sidewalks, curbstones and gutters.

Whenever such owner or occupant and each of them shall omit to make, maintain and repair the sidewalk, curbstones and gutters adjoining his land and to keep the same free and clear of and from snow, ice and all other obstructions, the council of the City of Long Beach may cause such act to be done, and in addition to any fine that may be imposed, may recover by action from such owner, the cost of doing the act, or may assess the same upon such lands, and such assessment may be collected in installments as in any other assessment for local improvements levied by the city.

(L.L. No. 1, 1931, § 2; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 4; L.L. No. 5, 1971, § 1; L.L. No. 4, 1992, § 1)

Sec. 256A. Inspection and repair of sidewalk by [the] city.

(a) Whenever the owner or occupant of lands fronting or abutting on any street, highway, traveled road, public lane, alley or square, shall omit to make, maintain and repair the sidewalk, curbstone and gutter adjoining his land, within ten (10) days after notice of failure so to do to the person, firm or corporation appearing on the assessment roll as the owner thereof, at the address appearing on the assessment roll, the city manager, as commissioner of public works, shall cause the same to be made, maintained and repaired.

(b) The sum of five thousand dollars ($5,000.00) is hereby transferred from unappropriated surplus account to the sidewalk repair fund.

(c) The city manager, as commissioner of public works, shall certify to the treasurer the cost of making, maintaining and repairing the sidewalk, curbstone and gutter adjoining each such lot or parcel of land, in each case where the said city manager shall have caused the same to be made after the failure of the owner or occupant thereof to comply with the notice referred to herein.

(d) Upon the receipt of the certification of such cost, the treasurer shall assess and enter as a lien against such property the certified cost thereof and shall, within ten (10) days after the entry of such assessment of lien, send notice thereof and

demand for payment thereof to the person, firm or corporation appearing on the assessment roll as the owner thereof. If such lien shall not be paid within forty (40) days after the entry thereof, interest shall be payable thereon from the date of such lien at the rate of one percentum per month or fraction thereof.

(e) All payments received by the treasurer for and on account of the cost of making, maintaining and repairing sidewalks, curbstones and gutters in accordance with the foregoing, shall be credited to the sidewalk repair fund.

(L.L. No. 5, 1971, § 1)

Sec. 256A(1). [Notice prerequisite to action against the City for failure to maintain safe public ways and places.]

a. As used in this Section:

i. The term "street" shall include the curbstone, gutter, an avenue, underpass, road, alley, lane, boulevard, concourse, parkway, bicycle path, road or path within a park, park approach, driveway, thoroughfare, public way, traffic sign or device, public square, public place and public parking area.

ii. The term "sidewalk" shall include a boardwalk, underpass, pedestrian walk or path, step, stairway, pier, ramp or any other portion of the aforementioned integrated with or serving as part of a connected sidewalk.

iii. The term "bridge" shall include a viaduct and an overpass.

b. No civil action shall be maintained against the City for damage to property or injury to person or death sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk, or any part or portion of any of the foregoing including any encumbrance thereon or attachments thereto, being out of repair, unsafe, dangerous or obstructed, unless at least 48 hours before prior to the occurrence resulting in such damage, injuries or death, written notice of the defective, unsafe, dangerous or obstructed condition of such street, highway, bridge, culvert, sidewalk or crosswalk shall have been filed in the office of the commissioner of Public Works of the City, and there was a failure or neglect within a reasonable time after the receipt of such notice to repair or remove the defect, danger or obstruction complained of, or otherwise to make the place reasonably safe.

c. No civil action shall be maintained against the City for damage to property or injury to person or death sustained in consequence of any beach, playground or equipment, skating rink, swimming or wading pool or equipment, tennis court, recreational field, hockey rink, skateboard playground, or any other real or personal property owned, operated or maintained by the City of Long Beach or any part or portion of any of the foregoing including any encumbrance thereon or attachments thereto, being out of repair, unsafe, dangerous or obstructed, unless at least 48 hours before prior to the occurrence resulting in such damage or injuries, written notice of the defective, unsafe, dangerous or obstructed condition of such beach, playground or equipment, skating rink, swimming or wading pool or equipment, tennis court, recreational field, hockey rink, skateboard playground, or any other real or personal property owned, operated or

maintained by the City relating to that particular place, shall have been filed in the office of the commissioner of Public Works of the City, and there was a failure or neglect within a reasonable time after the receipt of such notice to repair or remove the defect, danger or obstruction complained of, or otherwise to make the place reasonably safe.

d. The Commissioner of Public Works shall keep an indexed record in a separate book of all written notices which have been filed with the Commissioner of Public Works, as set forth in subsections b and c, regarding the existence of such defective, unsafe, dangerous or obstructed conditions, which record shall state the date of receipt of each such notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record shall be a public record. The record of each notice shall be maintained in the department of Public Works for a period of three years after the date on which it is received and shall be preserved in the municipal archives for a period of not less than five years.

e. If any provision of this section is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the section shall not be invalidated.

(L.L. No. 2, 1953, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L.L. No. 5, 1971, § 1; L.L. No. 4, 1980, § 1; L.L. No. 3, 1986, § 1; L.L. No. I, 2002, § 1; L.L. No. III/2021, 2021)

Annotation--Held constitutional, Weingarten v. City of Long Beach, 154 N.Y. Supp. 2nd 101; Rovics v. City of Long Beach, 136 N.Y. Supp. 2nd 85; Ross v. City of Long Beach, 133 N.Y. Supp. 2nd 149; Feinson v. City of Long Beach, 137 N.Y. Supp. 2nd 98; Fullerton v. City of Schenectady, 309 N.Y. 855. (L.L. No. 5, 1971, § 1)

Sec. 256A(2). [Prerequisites to actions for damages arising from snow and ice accumulations.]

No civil action shall be maintained against the city for damages or injuries to the person or the property sustained in consequence of the existence of snow or ice upon any highway, sidewalk, crosswalk or street, parkway or park approach, boardwalk or boardwalk ramp or approach, unless written notice thereof, relating to the particular place was actually given to the commissioner of public works, and there was a failure or neglect to cause such snow or ice to be removed or otherwise to make the place reasonably safe., within a reasonable time after the receipt of such notice.

(L.L. No. 2, 1940, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L.L. No. 5, 1971, § 1; L.L. No. III/2021, 2021)

Sec. 256A(3). [Maintenance of street trees and foliage.]

The owner or occupant of lands fronting or abutting upon any public street or public way shall maintain any trees, shrubs or foliage located between the property line and the adjoining street. Such owner or occupant and each of them shall be liable in tort for any injury or damage caused by reason of omission, failure or negligence in the maintenance, inspection, trimming or pruning of dead, diseased, overgrown, obstructive or hazardous growth on such trees, shrubs or foliage.

Whenever such owner or occupant shall fail or omit to maintain the trees, shrubs

or foliage located between the property line and the street adjoining his premises, and to keep said trees, shrubs or foliage free of dead, diseased, overgrown, obstructive or hazardous growth, the Commissioner of Public Works may, ten days after actual notice is served upon said owner or occupant, cause necessary remedial action to be taken to alleviate and abate any hazard resulting therefrom.

The Commissioner of Public Works shall thereupon certify to the Treasurer the cost of taking such remedial measures. Upon receipt of certification of such costs, the Treasurer shall assess and enter as a lien against such property the certified cost thereof and shall, within ten days after the entry of such assessment of lien, send notice thereof and demand for payment thereof to the person, firm or corporation appearing on the assessment roll as the owner thereof. If such lien shall not be paid within sixty days after the entry thereof, interest shall be payable thereon from the date of such lien at the rate of one percentum (1%) per month or fraction thereof.

(L.L. No. 1, 1990, § 1)

Sec. 256A(4). City tree board.

1. *Definitions:*

   Street trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

   Park trees: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city or to which the public has free access as a park.

2. *Creation and Establishment of a City Tree Board:* There is hereby created and established a city tree board for the City of Long Beach, New York, which shall consist of five (5) members, citizens and residents of this city, who shall be appointed by the city manager.

3. *Term of Office:* The term of the five (5) persons to be appointed by the city manager shall be three (3) years except that the term of two (2) of the members appointed to the first board shall be for only one (1) year and the term of two (2) members of the first board shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of term.

4. *Compensation:* Members of the board shall serve without compensation.

5. *Duties and Responsibilities:* It shall be the responsibility of the board to study, investigate, council, [counsel] and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Long Beach, State of New York. The board, when requested by the city manager, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

6. *Operation:* The board shall choose its own officers, make its own rules and

regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

7. *Street Tree Species To Be Planted:* The following list constitutes the official street tree species for the City of Long Beach, State of New York. No species other than those included in this list may be planted as street trees without written permission of the city tree board.

TABLE INSET:

Small Trees	Medium Trees	Large Trees
Apricot	Ash Green	Coffeetree
Crabapple	Hackberry	Kentucky
Flowering (sp)	Honeylocust (thornless)	Maple Silver
Golden Rain Tree	Linden or Basswood (sp)	Maple Sugar
Hawthorn (sp)	Mulburry, Red (fruitless, male)	Oak Bur
Pear, Branford	Oak, English	Sycamore
Redbud	Oak, Red	Sycamore, London plantree
Soapberry	Pagodatree, Japanese	Cottonwood (Cottonless, male)
Lilac, Jap tree	Pecan	
Peach, Flowering	Birch, River	
Plum, Purpleleaf	Osageorange (Male, thornless)	
Serviceberry	Persimmon	
	Popular (Poplar), White	
	Sassafras	

8. *Spacing:* The spacing of street trees will be in accordance with the three (3) species size classes listed in section [subsection] 7 of this local law [section], and no trees may be planted closer together than the following: small trees, thirty (30) feet; medium trees, forty (40) feet; and large trees, fifty (50) feet; except in special plantings designed or approved by a landscape architect.

9. *Distance From Curb and Sidewalk:* The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in section [subsection] 7 of this local law, [section] and no trees may be planted closer to any curb or sidewalk than the following: small trees, two (2) feet; medium trees, three (3) feet; and large trees, four (4) feet.

10. *Distance From Street Corners and Fireplugs:* No street tree shall be planted closer than thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten (10) feet of any fireplug.

11. *Utilities:* No street trees other than those species listed in section seven (7) of this local law [section] may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) feet of any underground water line, sewer line, transmission line or other utility.

12. *Public Tree Care:* The city shall have the right to plant, and maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The city tree board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does

not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with sections [subsections] 7 through 11 of this local law, [section].

13. *Tree Topping:* It shall be unlawful as normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this local law [section] at the determination of the city tree board.

14. *Pruning, Corner Clearance:* Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk. Said owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrubs on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic-control device or sign.

15. *Dead or Diseased Tree Removal on Private Property:* The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

16. *Removal of Stumps:* All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

17. *Interference With City Tree Board:* It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees in private ground, as authorized in this local law [section].

18. *Aborist License and Bond:* It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be twenty-five dollars ($25.00) annually in advance; provided, however that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of fifty thousand dollars ($50,000.00) for bodily injury and one hundred thousand dollars ($100,000.00) property damage indemnifying the city or any person injured or damaged resulting from

the pursuit of such endeavors as hereby described.

19. *Review by City Manager:* The city manager shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the city manager, who may hear the matter and make final decision.

20. *Penalty:* Any person violating any provision of this local law [section] shall be, upon conviction or plea of guilty, subject to a fine not to exceed five hundred dollars ($500.00).

(L.L. No. 3, 1991, § 1; L.L. No. III/2021, 2021)

Sec. 257. [Notice of tort claim against the city.]

[1] In any case founded upon tort a notice of claim is hereby required as a condition precedent to the commencement of an action or special proceeding against the City of Long Beach, or any officer, appointee, or employee thereof.

[2] No such action or special proceeding shall be commenced to recover upon or enforce any such claim against the City of Long Beach, or any officer, appointee, or employee thereof until the expiration of three months after the service of the said notice of claim, nor shall any such action or proceeding be commenced more than one year after the cause of action accrued. Nothing herein contained, however, shall be held to revive any claim or cause of action now barred by any existing requirement or statute of limitations nor to waive any existing limitation now applicable to any claim or cause of action against the city nor to bar any defense which the city may have by virtue of any existing requirement or statute of limitations.

(L.L. No. 3, 1931, § 1; L.L. No. 6, 1946, §§ 2, 3; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1)

Sec. 258. Liability of the city in certain actions

Except as provided otherwise in this Charter no action shall be maintained against the City of Long Beach upon or arising out of a contract of the City of Long Beach unless the same shall be commenced within one year after the cause of action therefor shall have accrued, nor unless a written verified claim shall have been filed with the City of Long Beach Corporation Counsel within ninety days after the cause of action shall have accrued, and no other action shall be maintained against the City of Long Beach unless the same shall be commenced within one year after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been made and served in compliance with section fifty-e of the general municipal law. The omission to present a claim or to commence an action thereon within the respective periods of time above stated applicable to such claim, shall be a bar to any claim or action therefor against the City of Long Beach; but no action shall be brought upon any such claim until forty days have elapsed after the filing of the claim in the office of the City of Long Beach Corporation Counsel. The ninety-day period in which to file a verified claim, for claims arising out of a contract of the City of Long Beach and all other actions against the City of Long Beach, is a condition precedent rather than a statute of limitations, and thus, the period may not be tolled or extended. Any action against the City of Long Beach must affirmatively allege and prove compliance with this section. Nothing herein contained

shall be held to revive any claim or cause barred by any requirement or statute of limitations nor waive any limitation applicable to any claim or cause of action against the City of Long Beach.

(L.L. No. X/22, 10-18-2022)

[Sec. 259. Reserved.*]

***Editor's note:** Local Laws Nos. 1 and 4 of 1957 renumbered certain provisions as both sections 98 and 258 of this charter and as sections 99 and 259 of this charter. At the discretion of the editor, the renumbered provisions have been included in sections 98 and 99 of this charter.

Sec. 260. [Authority of corporation counsel to require that notices of claims against the city be verified.]

1. The corporation counsel shall have the power to require any person, firm or corporation presenting a notice of claim based on tort against the city or any officer, appointee, or employee thereof, to appear, be sworn and testify before him or his designee relative to such claim, and when so sworn, to answer orally as to any facts relative to the justness of such claim. The corporation counsel shall have the power to administer oaths and affirmations to said person, firm or the authorized agent of said corporation.

2. The failure on the part of any person, firm or corporation presenting a notice of claim based on tort against the city or any officer, appointee, or employee thereof, to comply with the requirement of the corporation counsel, as set forth in section one hereof, shall be a complete defense to every action or special proceeding based upon such tort claim.

(L.L. No. 7, 1946, §§ 1, 2; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1)

Sec. 261. [Clearance of lots.]

1. No person, corporation or association who is the owner, lessee or occupant of real property in the City of Long Beach shall cause or suffer, allow or permit any dried grass, weeds, brush, wastepaper, rags, boxes, barrels or other inflammable or potentially inflammable or combustible waste material or grass or weeds to accumulate or remain on the premises under the control of such owner, lessee or occupant or cause the same to be placed upon any premises.

2. Any owner, lessee or occupant of real property upon which there may be an accumulation of grass, weeds, brush, wastepaper, rags, boxes, barrels or other inflammable or potentially inflammable or combustible waste material likely to catch fire or to spread flames should fire be communicated thereto, and thereby cause loss or damage, shall forthwith clear the premises of all such combustible, inflammable or potentially inflammable accumulation of materials.

3. Upon notice by the City of Long Beach in writing either personally or by mail to any owner, lessee or occupant of real property in the city, that such inflammable,

combustible or potentially inflammable or combustible materials or refuse or rubbish likely to cause or spread fires has accumulated on the premises owned, occupied or subject to the use or control of the person thus notified and that such materials be removed, such removal shall be accomplished within a period of ten (10) days from service of such notice.

4. If, within a period of ten (10) days from the service of such notice, the owner, lessee or occupant of the real property upon which such wastepaper, rags, boxes, barrels, grass, weeds and other inflammable or potentially inflammable or combustible waste materials have accumulated shall not have complied with the mandate of such order, the City of Long Beach may, through its employees, enter upon such premises and remove the accumulation of such materials, and the head of the department which shall have caused such materials to be removed shall certify to the treasurer the costs of such removal, including labor, materials and contractual costs; and upon the receipt of the certification of such cost the treasurer shall assess and enter as a lien against such property the certified cost thereof, and shall, immediately after the entry of such assessment of lien, send notice thereof and demand of payment thereof to the person, firm or corporation appearing on the assessment roll as the owner thereof; if such lien shall not be paid within thirty (30) days after the entry thereof, interest shall be payable thereon from the date of entry of such lien at the rate of one percentum per month or the fraction thereof.

5. All payments received by the treasurer for and on account of the cost of cleaning vacant lots in the City of Long Beach, in accordance with the foregoing provisions of this local law, shall be credited to the cleaning of vacant lots account.

(L.L. No. 4, 1950, § 5; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1; L.L. No. 5, 1970, § 1; L.L. No. 8, 1978, § 1)

Sec. 262. Maximum rents to be charged by hotels, apartment hotels, rooming houses and lodging houses for dwelling purposes.

a. [*Legislative findings.*] It is hereby declared that a serious emergency exists in the City of Long Beach by reason of the shortage of housing accommodations, hotel, apartment hotel, rooming house and lodging house accommodations, by reason of which the safety and health of the inhabitants are seriously menaced. Unless the rents for such accommodations are stabilized, disruptive practices and abnormal conditions will produce serious threats to the public health, safety and general welfare. Action by local law is necessary to prevent exactions of unjust, unreasonable and oppressive rents and rental agreements and to forestall profiteering, speculation and other disruptive practices tending to produce threats to health, safety and welfare of the inhabitants of the city. It is hereby declared to be the policy of this city for a limited time, to impose certain restrictions upon such rents for hotel, apartment hotel, rooming house and lodging house accommodations in the city, for the purpose of alleviating the present housing emergency and preventing such abuses.

b. *Definitions.* When used in this local law, the following terms shall mean and include:

1. "Commissioner." Temporary city housing rent commission created by this local law.

Sec. 262. Maximum rents to be charged by hotels, apartment hotels, rooming houses and lodging houses for dwelling purposes.

2. "Rent." Consideration, including any bonus, benefit or gratuity demanded or received for or in connection with the use or occupancy of hotel, apartment hotel, rooming house or lodging house accommodations.

3. "Persons." An individual, corporation, partnership, association, or any other organized group of individuals or the legal successor or representative of any of the foregoing.

4. "Room." A room or group of rooms rented or offered for rent for dwelling purposes as a unit in a hotel, apartment hotel, lodging house or rooming house.

5. "Landlord." An owner, lessor, sublessor, assignee or other person receiving or entitled to receive rent for the use or occupancy of any room as herein defined, or an agent of any of the foregoing.

6. "Tenant." A tenant, subtenant, lessee, sublessee or other person entitled to the possession or to the use or occupancy of any room as herein defined, and who occupied such room for a continuous period of not less than ninety days immediately prior to July first, nineteen hundred forty-seven, whether or not such occupancy by such tenant was at a daily, weekly, monthly or other rate of rent.

c. *Rents not to exceed maximum; violations.* It shall be unlawful for any person to demand, accept, or receive any rent for the use or occupancy of a room in any hotel, apartment hotel, rooming house or lodging house greater than the maximum rent which was established under the authority of the Federal Emergency Price Control Act of nineteen hundred forty-two as amended, and in effect with respect thereto on June thirtieth, nineteen hundred forty-seven, except that the commission shall, by regulation or order, make such adjustments in such maximum rents as may be necessary to correct inequities or to further carry out the policies declared in subdivision "a" hereof.

d. *Violations.* Each violation of this local law, or of any rule, regulation or order of the commission shall be punishable by a fine not exceeding the sum of five hundred dollars or by imprisonment for a term not to exceed ninety days, or both.

e. *Removal of tenant.* So long as the tenant continues to pay the rent to which the landlord is entitled, pursuant to the provisions of this local law, no tenant of a room within a hotel, apartment hotel, lodging house or rooming house shall be removed from such room by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession either by a change in the term of rate of occupancy or otherwise, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated unless:

1. Tenant's refusal to renew lease. The tenant, who had a written lease or other written rental agreement, has refused upon demand of the landlord to execute a written extension or renewal thereof for a further term of like duration but not in excess of one year but otherwise on the same terms and conditions as the previous lease or agreement except insofar as such terms and conditions are inconsistent with this local law; or

2. Tenant's refusal of access. The tenant has unreasonably refused the landlord access to the room for the purpose of inspection or of showing

the room to a prospective purchaser, mortgagee or prospective mortgagee, or other person having a legitimate interest therein; provided, however, that such refusal shall not be ground for removal or eviction if such inspection or showing of the room is contrary to the provisions of the tenant's lease or other rental agreement; or

3. Violating obligation of tenancy or committing nuisance. The tenant has violated a substantial obligation of his tenancy and has continued, or failed to cure such violation after written notice by the landlord that the violation cease, or is committing or permitting a nuisance or is urging or permitting a use of the room for an immoral or illegal purpose.

f. *Temporary city housing rent commission.* There is hereby created a temporary city housing rent commission which shall consist of five members to be appointed by the council. Such commission shall have the power to adopt, promulgate, amend, or rescind such rules, regulations and orders as such commission may deem necessary or proper to effectuate the purposes of this local law and shall receive no salary or compensation.

g. *Coercion.* It shall be unlawful for any person, by coercion, fraud, duress or other illegal means to deprive or to attempt to deprive any other person of the benefits provided for by this local law.

h. *Effective date and duration.* The provisions of this local law shall continue in effect until it shall have been determined by local law that the emergency no longer exists or the stabilization of such rents is provided for by state or federal law, whichever event occurs sooner.

(L.L. No. 5, 1947, § 1; L.L. No. 1, 1957, § 1; L.L. No. 4, 1957, § 1)

Sec. 263. City included in county mental health board.

Pursuant to the provisions of article 41 of the Mental Hygiene Law, the City of Long Beach does hereby agree to be included in the county mental health board covering the entire county, established under the Mental Hygiene Law of the State of New York.

(L.L. No. 3, 1955, § 1; L.L. No. 1, 1959, § 1; L.L. No. III/2021, 2021)

Sec. 264. Issuance and service of summonses.

Subsection 264.1. *Authority of the humane commissioner and dog wardens to issue and serve summonses.* Notwithstanding any provisions of the Uniform District Court Act and Article 12 of the city charter, or any other provision contained in the Municipal Code, the humane commissioner of the City of Long Beach, and the dog wardens designated by him, shall have the power to issue summonses as herein provided, for service by them, as provided in the Agriculture and Markets Law, within the City of Long Beach in connection with the performance of their duties.

Subsection 264.2. *Authority of other enumerated city officials to issue and serve summonses.* Notwithstanding any provisions of the Uniform District Court Act and Article 12 of the city charter, or any other provision contained in the Municipal Code, the following officials, officers, employees and personnel of the City of Long Beach shall have the power to issue and serve, within the City of Long Beach, summonses in cases

arising in connection with the performance of their duties. Such service shall have the same force and effect as if served by a peace officer without their being a peace officer:

(A) Animal shelter:

(a) Humane commissioner.

(b) Dog warden.

(c) Assistant dog warden.

(B) Department of public works:

(1) Deputy commissioner of public works.

(2) Division of sanitary services.

(a) Superintendent of operations.

(b) Supervisor of sanitation department.

(c) Collection foreman of the sanitation department.

(d) Supervisor of plant maintenance--Sewage treatment plant.

(e) Such foremen in the sanitation department as the superintendent of operations shall designate.

(3) Division of highways.

(a) Supervisor of highways and street maintenance department.

(4) Division of beaches.

(a) Superintendent of beach maintenance.

(C) Building department:

(a) Building commissioner.

(b) Plumbing inspector.

(c) Sanitation inspector.

(d) Such building inspectors as the building commissioner shall designate.

(D) Fire department: Such fire inspectors as the fire commissioner shall designate.

(E) Designees of the city manager: Such other officials, officers, employees and personnel of the City of Long Beach as the city manager shall designate.

Subsection 264.3. *Court to which summons is returnable; form of summons (appearance ticket).* A summons issued and served pursuant to this section shall be returnable in the city court of the City of Long Beach, and shall be substantially in the following form:

"APPEARANCE TICKET

City of Long Beach
New York

City of Long Beach
New York

Date _____

THE PEOPLE OF THE STATE OF NEW YORK vs.

Name: _____

Address: _____

You are hereby directed to appear in the Long Beach City Court, 1 West Chester St., 2nd Floor, City Hall, Long Beach, N. Y. on the _____ day of _____, 20_____, at 9:30 o'clock in the forenoon, to answer a charge made against you for violation of Section _____

_____

specific offense Section _____

_____

Upon your failure to appear at the time and place herein mentioned, a warrant shall be issued for your arrest and subject you to a fine, imprisonment or both.

_____ _____
Name Title*

Subsection 264.4. *Service of summons/appearance ticket on absentee property owners.* An appearance ticket issued pursuant to this section for a violation of a local zoning ordinance, or of a local building or sanitation code, may be served in the same manner as a civil summons under the Civil Practice Law and Rules of the State of New York section 308.

(L.L. No. II, 2005, § 1)

Sec. 265. Liquidated damages provisions in bids, contracts or agreements.

Any bid, contract or agreement entered into by the City of Long Beach with any person, firm or corporation may provide for and contain a provision for a penalty or forfeiture as liquidated damages, which shall be payable to the City of Long Beach for any failure by any such person, firm or corporation to comply with any of the terms or conditions contained therein.

(L.L. No. 3, 1975, § 1)

[Secs. 266--269. Reserved.]

ARTICLE 14. CONDUCT OF CERTAIN GAMES OF CHANCE BY CERTAIN ORGANIZATIONS

Sec. 270. Definitions.

As used in this article, unless the context requires otherwise, the following terms shall have the following meanings:

1. "Control commission" shall mean the state lottery control commission.
2. "Bingo" or "game" shall mean and include a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.
3. "Authorized organization" shall mean and include only bona fide religious, charitable or nonprofit organizations of veterans, volunteer firemen and similar nonprofit organizations.
4. "License" shall mean a license issued pursuant to the provisions of this article.

(L.L. No. 1, 1958, § 1)

Sec. 271. Authorization.

It shall be lawful for any authorized organization, upon obtaining a license therefor as hereinafter provided, to conduct the game of bingo within the territorial limits of the City of Long Beach, subject to the provisions of this article, the provisions of article fourteen-G (sections 475--499) of the General Municipal Law, and the provisions of the State Lottery Control Law.

(L.L. No. 1, 1958, § 1)

Sec. 272. Application for license.

1. Each applicant shall file with the city clerk of the City of Long Beach a written application in the form prescribed in the rules and regulations of the control commission duly executed and verified.
2. In each application there shall be designated an active member or members of the applicant organization under whom the game or games of chance described in the application are to be held, operated and conducted, and there shall be appended to the application a statement executed and verified by the applicant and by the member or members so designated that he, she or they will be responsible for the holding, operation and conduct of such games of chance in accordance with the terms of the license and the provisions of this article, chapter eight hundred fifty-four of the laws of nineteen hundred fifty-seven, and the rules and regulations of the control commission, if such license is granted.
3. In the event that any premises upon which any such game of chance is to be held, operated or conducted, or which is to be used for any other purpose in

connection with the holding, operation or conduct thereof, is to be leased or rented from any person, persons or corporation, the application shall be accompanied by a written statement signed and verified under oath by such person or persons or on behalf of such corporation, stating his or its address, the amount of rent to be paid for such premises, and stating that such lessor, lessors or, if a corporation, all of its officers and each of its stockholders who hold more than ten percent or more of its stock issued and outstanding, are of good moral character and have not been convicted of a crime.

(L.L. No. 1, 1958, § 1)

Sec. 273. General restrictions.

Any game or games licensed hereunder shall be subjected to the following restrictions in addition to such other restrictions as may be provided herein or contained in the rules and regulations of the control commission.

1. No person, firm, association, corporation or organization other than a licensee under the provisions of article fourteen-H of the General Municipal Law, shall conduct such game or shall lease or otherwise make available for conducting bingo a hall or other premises for any consideration whatsoever, direct or indirect.
2. No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.
3. No authorized organization licensed under the provisions of article fourteen-H of the General Municipal Law shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the Bingo Control Law or from another authorized organization.
4. The entire net proceeds of any game of bingo and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.
5. No prize shall exceed the sum or value of two hundred fifty dollars in any single game of bingo.
6. No series of prizes on any one bingo occasion shall aggregate more than one thousand dollars.
7. No person except a bona fide member of any such organization shall participate in the management or operation of such game.
8. No person shall receive any remuneration for participating in the management or operation of any game of bingo.
9. The unauthorized conduct of a bingo game and any wilful violation of any provision of this local law shall constitute and be punishable as a misdemeanor.

(L.L. No. 1, 1958, § 1; L.L. No. 3, 1963, § 1)

Sec. 274. Issuance and duration of license.

1. The city clerk of the City of Long Beach shall cause to be investigated the qualifications of each applicant and the merits of each application with due expedition after the filing of the application. The city clerk shall deliver to the city manager the application together with the supporting documents therefor and a detailed report of the results of his investigation, including the due qualification of the applicant to be licensed, the relationship of the members under whom such games are to be conducted with the applicant, whether such persons are of good moral character or have ever been convicted of a crime, whether the conduct of such games will comply with all the provisions of law and rules and regulations applicable thereto, whether a commission, salary, compensation, reward or recompense of any nature will be paid to any person conducting or assisting in conducting such games of chance, whether a prize will be offered or given in excess of the sum or value of two hundred fifty dollars in any single game or an aggregate of all prizes given in a series of games on a given occasion will exceed the sum or value of one thousand dollars, and such other questions or inquiries as the city manager may direct.

2. If the manager shall determine that the requisite conditions have been met by the applicant, the city clerk shall issue a license to the applicant for the holding, operation and conduct of the specific kinds of games of chance applied for upon payment of a license fee or fees of ten dollars for each occasion upon which any games of chance are to be conducted under such license, which fees are to be paid to the cashier of the City of Long Beach.

3. On or before the thirtieth day of each month the treasurer of the City of Long Beach shall transmit to the state comptroller a sum equal to fifty percent of all license fees collected by the City of Long Beach pursuant to this section during the preceding calendar month.

4. No license shall be issued under this article which shall be effective for a period of more than one year.

(L.L. No. 1, 1958, § 1)

Sec. 275. Hearing; amendment of license.

1. No application for a license hereunder shall be denied by the city manager until after a hearing, held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

2. Any license issued under this article may be amended upon application to the city manager, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license, and upon the payment of such additional license fee, if any, as would have been payable if it had been so included.

(L.L. No. 1, 1958, § 1)

Sec. 276. [Form of license.]

Each license shall be in such form as shall be prescribed in the rules and regulations promulgated by the control commission.

(L.L. No. 1, 1958, § 1)

Sec. 277. [Supervision by the city manager.]

The city manager shall have and exercise control and supervision over all games of chance held, operated or conducted under such license, and shall have the power and authority to suspend any such license, and, after notice and hearing, to revoke the same for violation of any provision of such license, this article, sections four hundred seventy-five to four hundred ninety-nine of the General Municipal Law or the rules and regulations of the control commission. The city manager or any officer designated by him shall have the right of entry at all times into any premises where any such game of chance is being held, operated or conducted, or where it is intended that any such game of chance shall be held, operated or conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of license.

(L.L. No. 1, 1958, § 1)

Sec. 278. [When games may be played.]

Such games may be held on any day provided for in such license.

(L.L. No. 1, 1958, § 1)

Sec. 279. [Minimum age of participants.]

No person under the age of eighteen years shall be permitted to participate in any game or games of chance held, operated or conducted pursuant to any license issued under this article unless accompanied by an adult.

(L.L. No. 1, 1958, § 1)

Sec. 280. [Frequency of games.]

No game or games of chance shall be held, operated or conducted under any license issued under this article oftener than on six days in any one calendar month, or in any room or outdoor area where alcoholic beverages are sold or served during the progress of the game or games.

(L.L. No. 1, 1958, § 1)

Sec. 281. Persons operating and conducting games; equipment; expenses; compensation.

No person shall hold, operate or conduct any game or games of chance under any license issued under this article except an active member of the authorized organization to which the license is issued, and no person shall assist in the holding,

operating or conducting of any game or games of chance under such license except such an active member or a member of an organization or association which is an auxiliary to the licensee or a member of an organization or association of which such licensee is an auxiliary or a member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association and except bookkeepers or accountants as hereinafter provided and no such game of chance shall be conducted with any equipment except such as shall be owned absolutely or used without payment of any compensation therefor by the licensee, and no item of expense shall be incurred or paid in connection with the holding, operating or conducting of any game of chance held, operated or conducted pursuant to any license issued under this article, except such as are bona fide items of reasonable amount for goods, wares and merchandise furnished or services rendered which are reasonably necessary to be purchased or furnished for the holding, operating or conducting thereof under any circumstances whatever; no rental shall be paid for the use of any premises for holding, operating or conducting any such game of chance thereon or for any other purpose in connection with the holding, operating or conducting thereof unless the amount of such rental is stated in a statement annexed to the application for the license as provided in section two hundred seventy-two of this article or which is in excess of the sum stated as the rental to be charged therefor in such statement; and no commission, salary, compensation, reward or recompense whatever shall be paid or given, directly or indirectly, to any person holding, operating or conducting, or assisting in the holding, operation or conduct of any game of chance so held, operated or conducted, except that reasonable compensation may be paid to bookkeepers or accountants for bookkeeping or accounting services rendered according to a schedule of comparison prescribed by the rules of the control commission.

(L.L. No. 1, 1958, § 1)

Sec. 282. Charge for admission and participation; amount of prizes; award of prizes.

Not more than one dollar shall be charged by any licensee for admission to any room or place in which any game or games of chance are to be held, operated and conducted under any license issued under this article, which admission fee, upon payment thereof, shall entitle the person paying the same to a card entitling him to participate without additional charge in all regular games of chance to be played under such license on such occasion, and no charge in excess of one dollar shall be made for a single opportunity to participate in all special games to be played under such license on such occasion. No prize greater in amount or value than two hundred fifty dollars shall be offered or given in any single game conducted under any such license and the aggregate amount or value of all prizes offered or given in all games played on a single occasion shall not exceed one thousand dollars, and all winners shall be determined and all prizes shall be awarded in any game played on any occasion within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any such game.

(L.L. No. 1, 1958, § 1)

Sec. 283. Advertising games.

No game of chance to be conducted under any license issued under this article

shall be advertised as to its location, the time when it is to be or has been played, or the prizes awarded or to be awarded, by means of newspapers, radio, television or sound trucks or by means of billboards, posters or handbills or any other means addressed to the general public, except that one sign not exceeding sixty square feet in area may be displayed on or adjacent to the premises where the game will be played and an additional sign may be displayed on or adjacent to the premises where the prize or prizes are displayed and additional signs may be displayed upon any fire fighting equipment belonging to any licensee, which is a volunteer fire company, or upon any first-aid or rescue equipment belonging to any licensee, which is a first-aid or rescue squad, in and throughout the community or communities served by such volunteer fire company or such first-aid or rescue squad, as the case may be.

(L.L. No. 1, 1958, § 1)

Sec. 284. Statement of receipts, expenses, etc.

Within fifteen days after the conclusion of the holding, operating and conducting of any such game of chance, the authorized organization which held, operated or conducted the same, and its members who were in charge thereof, shall furnish to the city clerk a duly verified statement showing the amount of the gross receipts derived from each game of chance, which shall include receipts from the sale of shares, tickets or rights in any manner connected with participation in said game or the right to participate therein, each item of expense incurred, or paid, and each item of expenditure made or to be made, the name and address of each person to whom each such item has been paid, or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net profit derived from each such game of chance, and the use to which such net profit has been or is to be applied, and a list of prizes offered and given, with the respective values thereof, and it shall be the duty of such licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

(L.L. No. 1, 1958, § 1)

Sec. 285. Examination of books and records; examination of managers, etc.; disclosure of information.

The city manager or any officer designated by him and the control commission shall have power to examine or cause to be examined the books and records of any authorized organization to which any such license is issued so far as they may relate to any transactions connected with the holding, operating and conducting of any game of chance thereunder and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game of chance under any such license but any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this article.

(L.L. No. 1, 1958, § 1)

Sec. 286. Appeals to control commission.

Any applicant for, or holder of, any license issued or to be issued under this article, aggrieved by any action of the city, its officers or agents, concerning an application which has been made or a license which has been issued, may appeal to the

control commission from the determination of the city, its officers or agents, by filing with the city manager a written notice of appeal within thirty (30) days after the determination or action appealed from, and upon the hearing of such appeal, the evidence, if any, taken before the city manager, and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the control commission upon said appeal shall be binding upon the city and all parties to said appeal.

(L.L. No. 1, 1958, § 1)

Sec. 287. Immunity from prosecution; exemption.

No person or corporation[:]

(1) Lawfully conducting, or participating in the conduct of,

(2) Possessing, selling or in any manner disposing of, any shares, tickets or rights to participate in, or

(3) Permitting the conduct upon any premises owned by him or it of any game of chance conducted or to be conducted under any license lawfully issued pursuant to this article,

shall be liable to prosecution or conviction for violation of any provision of article one hundred thirty of the Penal Law or any other law or ordinance to the extent that such conduct is specifically authorized by this article, but this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of any game of chance under any license obtained by any false pretense or statement made in any application for such license or otherwise, or possessing, selling or disposing of shares, tickets or rights to participate in, or permitting the conduct upon any premises owned by him or it of any game of chance conducted under any license known to him or it to have been obtained by any such false pretense or statement.

(L.L. No. 1, 1958, § 1)

Sec. 288. Offense; forfeiture of license; ineligibility to apply for license.

Any person, association or corporation who or which shall make any false statement in any application for any such license or in any statement annexed thereto or shall pay any rental for the use of any premises for holding, operating or conducting any game of chance under this article or for any other purpose in connection with the holding, operating or conducting thereof, unless the amount of such rental is stated in a statement annexed to the application for the license as provided in section two hundred seventy-two of this article, or shall pay or receive any sum for such rental in excess of the sum stated as the rental to be charged therefor in such statement executed by him or on its behalf, or shall fail to keep such books and records as shall fully and truly record all transactions connected with the holding, operating and conducting of games of chance under any such license or shall falsify or make any false entry in any book or record so far as they relate to any transaction connected with the holding, operating or conducting of any game of chance under any such license or shall violate any of the provisions of this article or of any term of such license shall be guilty of a misdemeanor and shall forfeit any license issued to it under this article and be ineligible to apply for a license under this article for one year thereafter.

(L.L. No. 1, 1958, § 1)

Sec. 289. Amendment and repeal.

This article may be amended, from time to time, or repealed by the common council, and such amendment or repeal, as the case may be, may be made effective and operative not earlier than thirty days following the date of enactment of the local law or ordinance affecting such amendment or repeal, as the case may be; and the approval of a majority of the electors shall not be a condition prerequisite to the taking effect of such local law or ordinance.

(L.L. No. 1, 1958, § 1)

Sec. 290. Severability.

If any provision or application of this article or a provision or application of chapter eight hundred fifty-four of the laws of nineteen hundred fifty-seven to any municipality, person or circumstances shall be adjudged unconstitutional by any court of competent jurisdiction, the remainder of this article, or the application of chapter eight hundred fifty-four of the laws of nineteen hundred fifty-seven, to other municipalities, persons and circumstances shall not be affected thereby, and the council hereby declares that it would have enacted this article without the invalid provisions or application, as the case may be, had such invalidity been apparent.

(L.L. No. 1, 1958, § 1)

Sec. 291. Effective date.

The provisions of this article shall remain inoperative unless and until a proposition therefor is submitted at a special election to be held on Tuesday, March twenty-fifth, nineteen hundred fifty-eight, in the City of Long Beach, and shall be approved by a vote of the majority of the qualified electors in the City of Long Beach voting thereon. Such submission shall be in accordance with section eighteen of the City Home Rule Law and such other provisions of law applicable to the adoption of a local law at a referendum. In the event that such proposition is approved as aforesaid this article shall take effect on April first, nineteen hundred fifty-eight.

(L.L. No. 1, 1958, § 1)

ARTICLE 15. DEPARTMENT OF BUILDINGS AND PROPERTY CONSERVATION

PART A. IN GENERAL

Sec. 292. Commissioner of buildings and property conservation.

The commissioner of buildings and property conservation shall be head of the department of buildings and property conservation and shall be responsible to the city manager for the conduct of all divisions and offices within the department of buildings and property conservation.

(L.L. No. 2, 1970, § 1)

Sec. 293. Duties and powers.

The commissioner of buildings and property conservation shall have the following duties and powers:

A. Under the general direction of the city manager, to supervise, control and administer the divisions and offices of the department;

B. Either personally, or through a duly authorized member of his staff, to enter and inspect all buildings, structures and property within the city;

C. To supervise and direct the enforcement of the provisions of the General City Law applicable to property, the Multiple Residence Law, the building code, the plumbing code, the zoning ordinance, the property rehabilitation and conservation code, and all laws and ordinances of the city and state governing the construction, maintenance, use and occupancy of buildings, structures and property;

D. To develop and implement programs aimed at arresting and correcting blight and deterioration in housing and other structures, and property throughout the City of Long Beach.

(L.L. No. 2, 1970, § 1)

Sec. 294. Maintenance of central violations index.

The commissioner of buildings and property conservation shall establish and cause to be maintained a current index showing, and a file containing, with respect to each unit of property located in the city, each notice and order of violation of the department of buildings and property conservation, the fire department, the Nassau County Health Department, and of every other municipal department, bureau or agency having jurisdiction over property and of each notice, order, rule, or certificate showing the clearance, correction or abatement of such violation.

It shall be the duty of every department, bureau and agency having jurisdiction over property located in the City of Long Beach to file with the commissioner a true copy of each notice and order of such department, bureau or agency alleging the violation of

law, ordinance, or rule, relating to each unit of property, and of each notice, order, or certificate showing the clearance, correction or abatement of such violation, within seventy-two (72) hours from the date of issuance of such notice, order, rule or certificate.

(L.L. No. 2, 1970, § 1)

Sec. 295. Divisions and offices.

There shall be within the department of buildings and property conservation the following divisions and offices:

A. Bureau of buildings.

(1) Office of plumbing and plumbing inspection.

B. Bureau of property conservation.

(1) Office of zoning administration.

(L.L. No. 2, 1970, § 1)

PART B. BUREAU OF BUILDINGS

Sec. 296. Director of buildings.

There shall be a bureau of buildings, the head of which shall be appointed by and removed at the pleasure of the city manager. He shall assist the commissioner in enforcing provisions of laws, ordinances, rules and regulations relating to new construction, and shall perform such additional duties and responsibilities as may be delegated to him by the commissioner or specifically provided by law.

(L.L. No. 2, 1970, § 1; L.L. No. 7, 1970, § 1)

Sec. 297. Office of plumbing and plumbing inspection.

The plumbing inspectors shall be appointed by the commissioner of buildings and property conservation, in accordance with the applicable provisions of the General City Law, and shall have all the duties and powers permitted by the General City Law, under the supervision of the commissioner, and shall perform such additional duties and responsibilities as may be delegated to him by the commissioner or specifically provided by law.

(L.L. No. 2, 1970, § 1)

PART C. BUREAU OF PROPERTY CONSERVATION

Sec. 298. Director of property conservation.

There shall be a bureau of property conservation, the head of which shall be appointed by and removed at the pleasure of the city manager. He shall assist the commissioner in enforcing provisions of laws, ordinances, rules and regulations relating to new construction, and shall perform such additional duties and responsibilities as may be delegated to him by the commissioner or specifically provided by law.

(L.L. No. 2, 1970, § 1; L.L. No. 7, 1970, § 2)

Sec. 299. Office of zoning administration.

The zoning administrator shall be the head of the office of zoning administration. He shall be appointed by and serve under the supervision of the commissioner of buildings and property conservation. He shall be responsible for the administration of all provisions and regulations of the zoning ordinance.

(L.L. No. 2, 1970, § 1)

Secs. 300, 301. Reserved.

Editor's note: L.L. No. 1, 1976, § 1 repealed §§ 300, 301 which had pertained to the creation, duties, powers, etc., of the citizens' rehabilitation and conservation advisory committee. Said sections had been derived from L.L. No. 2, 1970, § 1.

PART D. SEVERABILITY

Sec. 302. Effect of unconstitutionality in part.

If any clause, sentence, paragraph, section or part of this local law contained in Article 15 shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

(L.L. No. 2, 1970, § 1)

Secs. 303--309. Reserved.

ARTICLE 16. LICENSING OF GAMES OF CHANCE

Sec. 310. Origin and source of authority.

This article is subject and subordinate to all the conditions and provisions contained in Article Nine-A of the General Municipal Law and amendments thereto, and any and all rules and regulations and opinions adopted or to be adopted by the New York State Racing and Wagering Board.

(L.L. No. 6, 1976, § 1)

Sec. 311. Legislative intent.

The city council finds the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious, patriotic, and other worthy causes, and where the beneficiaries are undetermined, to be in the public interest, and that the mandate of section nine of article one of the State Constitution, as amended, should be carried out by rigid regulations to prevent commercialized gambling, prevent participation by criminal and other undesirable elements, and prevent the diversion of funds from the purposes herein authorized.

(L.L. No. 6, 1976, § 1)

Sec. 312. Definitions.

(1) "Authorized games of chance lessor" shall mean an authorized organization which has been granted a lessor's license pursuant to the provisions of Article Nine-A of the General Municipal Law or pursuant to the provisions of this article.

(2) "Authorized organization" shall mean and include any bona fide religious or charitable organization or bona fide educational or service organization or bona fide organization of veterans or volunteer firemen which, by its charter, certificate of incorporation, constitution, or act of the Legislature, shall have among its dominant purposes those as defined in this article, and provided that each such organization shall operate without profit to its individual members and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in this article for a period of three (3) years immediately preceding the filing of an application for a license under this article.

No organization shall be deemed an authorized organization which is or has been formed primarily for the purpose of conducting games of changes and the distribution of the proceeds thereof to itself or any other organization, or which does not devote at least seventy-five (75) per cent of its activities and funds to other lawful purposes set forth in this article. No political party or club or committee shall be deemed an authorized organization.

(3) "Authorized supplier of games of chance equipment" shall mean any person, firm, corporation, partnership or organization licensed by the New York State Racing and Wagering Board to sell or lease games of chance equipment or paraphernalia which meets the specifications and regulations established by the New York State Racing and Wagering Board. Nothing herein shall prevent an

authorized organization from purchasing common articles, such as cards and dice, from normal sources of supply of such articles or from constructing equipment and paraphernalia for games of chance for its own use; however, no such equipment or paraphernalia, constructed by an authorized organization, shall be sold or leased to any other authorized organization without written permission from the New York State Racing and Wagering Board.

(4) "Games of chance" shall mean and include specific games of chance in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as "Bingo" or "Lotto" which are controlled by Article 14-H of the General Municipal Law and Article 14 of the Charter of the City of Long Beach, and also not including "slot machines," "bookmaking" and "policy or number games" as defined in Section 225.00 of the Penal Law. No game of chance shall involve wagering of money by one player against another player.

(5) "Lawful purposes" shall mean one or more of the following causes, deeds or activities:

(a) Those which shall benefit needy or deserving persons indefinite in number by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering or distress, or by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded and enhancing their loyalty to their governments;

(b) Those which shall initiate, perform or foster worthy public works or shall enable or further the erection or maintenance of public structures;

(c) Those which shall otherwise lessen the burdens borne by government or which are voluntarily undertaken by an authorized organization to augment or supplement services which government would normally render to the people.

(6) "Licensed period" shall mean a period of time not to exceed fourteen (14) consecutive hours.

(7) "Net proceeds" shall mean (a) in relation to the gross receipts from one or more occasions of games of chance, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for supplies and equipment, prizes, stated rental, if any, bookkeeping or accounting services, according to a schedule of compensation prescribed by the New York State Racing and Wagering Board, janitorial services and utility supplies, if any, license fees, and the cost of bus transportation if authorized by the division; and (b) in relation to the gross rent received by an organization licensed to conduct such games for the use of its premises by another licensee, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable thereto, if any.

(8) "One occasion" shall mean the conducting of any type of game of chance during any one license period. No series of prizes on any one occasion shall aggregate more than one thousand dollars ($1,000.00).

(9) "Prize" shall mean a sum of money or item of merchandise awarded by the

authorized organization to a participant in any one operation or conducting of a game of chance in which participants utilize currency for participation and in which those who are not winners surrender their participating currency at the conclusion of the single operation of such game of chance. No prize for any one participant in any one operation or conducting of such single game of chance shall exceed the sum of one hundred dollars ($100.00). If a prize is awarded based on odds, only that portion in excess of the winning participant's bet shall be considered as a prize.

For the purposes of this article, the value of a prize which consists of merchandise shall be the actual cost of the item of such merchandise.

(10) "City council" shall mean the city council of the City of Long Beach.

(11) "City clerk" shall mean the city clerk of the City of Long Beach.

(L.L. No. 6, 1976, § 1)

Sec. 313. Enforcement.

The city clerk is hereby delegated the authority granted to the city council by the New York State Games of Chance Licensing Law, Article Nine-A of the General Municipal Law, in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearings, and the collection and transmission of fees.

(L.L. No. 6, 1976, § 1)

Sec. 314. Restrictions upon conduct of games of chance.

1. No person, firm, association, corporation or organization, other than a licensee under the provisions of this article, shall conduct such game or shall lease, or otherwise make available for conducting games of chance, a hall or other premises for any consideration whatsoever, direct or indirect, except as provided in section 315 of this article.

2. No game of chance shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

3. No authorized organization licensed under the provisions of this article shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of games of chance from other than an authorized supplier of games of chance equipment licensed by the New York State Racing and Wagering Board.

4. The entire net proceeds of any game of chance and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

5. No series of prizes on any one occasion of games of chance shall aggregate more than one thousand dollars ($1,000.00).

6. No prize shall exceed the sum or value of one hundred dollars ($100.00) in any operation or conducting of a single game of chance. No single wager shall

exceed ten dollars ($10.00).

7. No person, except a bona fide member of any such organization, its auxiliary or affiliated organization, shall participate in the management or operation of such game as set forth in section 320 of this article.

8. No person shall receive any remuneration for participating in the management or operation of any such game.

9. The conduct of games of chance on Sundays is only permitted when it is specifically provided for in the license issued. No games, however, shall be conducted on Easter Sunday, Christmas Day or New Year's Eve.

10. No hall or other premises may be used for the conduct of games of chance unless said hall or other premises, where applicable, complies with the requirements of the Code of Ordinances of the City of Long Beach relative to places of public assembly.

(L.L. No. 6, 1976, § 1)

Sec. 315. License requirement.

1. *To conduct games of chance:*

   A. Each applicant for a license shall, after obtaining an identification number from the New York State Racing and Wagering Board, file with the city clerk a written application therefor, on a form to be prescribed by the New York State Racing and Wagering Board, and/or the city clerk, duly executed and verified, in which shall be stated:

      (1) The name and address of the applicant, together with sufficient facts relating to its incorporation and organization to enable the city clerk to determine whether or not it is a bona fide authorized organization;

      (2) The names and home addresses of its officers; the place or places where, the date or dates, and the time or times when the applicant intends to conduct games under the license applied for;

      (3) The amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for use of the premises of another authorized organization licensed under this law to conduct such games or for the use of the premises of an authorized games of chance lessor;

      (4) All other items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such games of chance, and the names and addresses of the persons to whom, and the purposes for which, they are to be paid;

      (5) The purposes to which the entire net proceeds of such games are to be devoted and in what manner; that no commission, salary, compensation, reward or recompense will be paid to any person for conducting such games or games or for assisting therein except as in Article Nine of the General Municipal Law otherwise

provided; and such other information as shall be prescribed by such rules and regulations.

B. In each application there shall be designated not less than four (4) active members of the applicant organization under whom the game or games of chance will be conducted, and to the application shall be appended a statement executed by the members so designated that they will be responsible for the conduct of such games in accordance with the terms of the license and the rules and regulations of the New York State Racing and Wagering Board, Article Nine-A of the General Municipal Law, and the provisions of this article.

2. *Authorized games of chance lessor:* Each applicant for a license to lease premises to a licensed organization for the purposes of conducting games of chance therein shall file with the city clerk a written application therefor in a form to be prescribed by the New York State Racing and Wagering Board, duly executed and verified, which shall set forth the name and address of the applicant; designation and address of the premises intended to be covered by the license sought; a statement that the applicant in all respects conforms with the specifications contained in the definition of "authorized organization" set forth in section 312 of this article; and such other information as shall be prescribed by the New York State Racing and Wagering Board and the provisions of this article.

(L.L. No. 6, 1976, § 1)

Sec. 316. Conditions of licensing.

1. The city clerk shall make an investigation of the qualifications of each applicant and the merits of each application with due expedition after the filing of the application:

(a) *Issuance of licenses to conduct games of chance:* If the city clerk shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this article; that the member or members of the applicant designated in the application to conduct games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon or a certificate of good conduct; that such games are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the New York State Racing and Wagering Board, and that the proceeds thereof are to be disposed of as provided by this article; and if the city clerk is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting, or assisting in the holding, operation and conduct of any such games except as in this article otherwise provided; and that no prize will be given in excess of the sum or value of one hundred dollars ($100.00) in any single game, and that the aggregate of all prizes given on one occasion under said license shall not exceed the sum or value of one thousand dollars ($1,000.00); the city clerk shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five

dollars ($25.00) for each license period.

(b) *Issuance of licenses to authorized games of chance lessors:* If the city clerk shall determine that the applicant seeking to lease a hall or premises for the conduct of games of chance to an authorized organization is duly qualified to be licensed under this article; that the applicant satisfies the requirements for an authorized games of chance lessor as defined in section 312 of this article; that the city clerk shall find and determine that there is a public need and that public advantage will be served by the issuance of such license; that the applicant has filed its proposed rent for each game of chance occasion; that there is no diversion of the funds of the proposed lessee from the lawful purposes as defined in this Local Law; and that such leasing of a hall or premises for the conduct of such games is to be in accordance with the provisions of this article and in accordance with the rules and regulations of the New York State Racing and Wagering Board; it shall issue a license permitting the applicant to lease said premises for the conduct of such games to the authorized organization or organizations specified in the application during the period therein specified of such shorter period as the city clerk shall determine, but not to exceed one year, upon payment of a license fee of fifty dollars ($50.00).

2. On or before the thirtieth day of each month, the treasurer of the City of Long Beach, on behalf of the city clerk, shall transmit to the state comptroller a sum equal to fifty (50) per cent of all authorized games of chance lessor license fees and the sum of fifteen dollars ($15.00) per license period for the conduct of games of chance collected by such city clerk pursuant to this section during the preceding calendar month.

3. No license shall be issued under this article which shall be effective for a period of more than one year.

(L.L. No. 6, 1976, § 1)

Sec. 317. Amendment of license.

1. No application for the issuance of a license to an authorized organization shall be denied by the city clerk until after a hearing held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

2. Any license issued under this article may be amended upon application made to such city clerk if the subject matter of the proposed amendment could lawfully and properly have been included in the original license, and upon payment of such additional license fee, if any, as would have been payable if it had been so included.

(L.L. No. 6, 1976, § 1)

Sec. 318. Form, content and display of license.

1. Each license to conduct games of chance shall be in such form as shall be prescribed in the rules and regulations of the New York State Racing and

Wagering Board, and shall contain a statement of the name and address of the licensee, of the names and addresses of the member or members of the licensee under whom the games will be conducted, of the place or places where and the date or dates and time or times when such games are to be conducted, and of the purposes to which the entire net proceeds of such games are to be devoted; if any prize or prizes are to be given in cash, a statement of the amounts of the prizes authorized so to be given; and any other information which may be required by said rules and regulations to be contained therein, and each license issued for the conduct of any games shall be conspicuously displayed at the place where same is to be conducted at all times during the conduct thereof.

2. Each license to lease premises for conducting games of chance will be in such form as shall be prescribed in the rules and regulations of the New York State Racing and Wagering Board and shall contain a statement of the name and address of the licensee and the address of the leased premises; the amount of permissible rent; and any information which may be required by said rules and regulations to be contained therein, and each such license shall be conspicuously displayed upon such premises at all times during the conduct of games of chance.

(L.L. No. 6, 1976, § 1)

Sec. 319. Control and supervision of games of chance.

1. The chief law enforcement officer of the City of Long Beach shall have and exercise rigid control and close supervision over all games of chance conducted under such license to the end that the same are fairly conducted in accordance with the provisions of such license, the provisions of the rules and regulations promulgated by the New York State Racing and Wagering Board, and the provisions of this article, and such chief law enforcement officer and the New York State Racing and Wagering Board shall have the power and the authority to temporarily suspend any license issued by the city clerk, pending a hearing, and after notice and hearing, the New York State Racing and Wagering Board may suspend or revoke the same and shall have the right of entry by their respective officers and agents at all times into any premises where any game of chance is being conducted, or where it is intended that any such game shall be conducted or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same. An agent of the appropriate chief law enforcement officer shall make an on-site inspection during the conduct of all games of chance licensed pursuant to this article.

2. The service of alcoholic beverages is subject to the applicable provisions of the alcoholic beverage control law. Beer may be offered for sale during the conduct of games of chance, but the offering of all other alcoholic beverages is prohibited.

(L.L. No. 6, 1976, § 1)

Sec. 320. Operation and conduct of games of chance.

1. *Participation by persons under eighteen:* No person under the age of eighteen (18) years shall be permitted to play any game or games of chance conducted pursuant to any license issued under this article. No person under the age of

eighteen (18) years shall be permitted to conduct or assist in the conduct of any game of chance conducted pursuant to any license issued under this article.

2. *Frequency of games:* No game or games of chance shall be conducted under any license issued under this article more often than twelve (12) times in any calendar year. Games shall be conducted only between the hours of noon and midnight on Sunday, Monday, Tuesday, Wednesday, and Thursday, and only between the hours of noon on Friday and 2:00 a.m. Saturday, and only between the hours of noon on Saturday and 2:00 a.m. Sunday. The 2:00 a.m. closing periods shall also apply to a legal holiday.

3. *Persons operating and conducting games; equipment; expenses; compensation:* No person shall hold, operate or conduct any game of chance under any license issued under this article except an active member of the authorized organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any game of chance under such license except such an active member or a member of an organization or association which is an auxiliary to the licensee or a member of an organization or association of which such licensee is an auxiliary or member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association.

No game of chance shall be conducted with any equipment except such as shall be owned or leased by the authorized organization so licensed or used without payment of any compensation therefor by the licensee.

At least two (2) officers, director, trustees or clergy of the authorized organization shall, upon request, certify under oath that the persons assisting in holding, operating or conducting any game of chance are bona fide members of such authorized organization, auxiliary or affiliated organization. Upon request by the chief law enforcement officer of the City of Long Beach, any such person involved in such games of chance shall certify that he or she has no criminal record.

No items of expense shall be incurred or paid in connection with the conducting of any game of chance pursuant to any license issued under this article except those that are reasonable and are necessarily expended for games of chance supplies and equipment, prizes, stated rental, if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the New York State Racing and Wagering Board, janitorial services and utility supplies, if any, and license fees, and the cost of bus transportation if authorized by said board.

4. *Charge for admission and participation; amount of prizes; award of prizes:* No more than two dollars ($2.00) shall be charged by any licensee for admission to any room or place in which any game or games of chance are to be conducted under any license issued under this article. Every winner shall be determined and every prize shall be awarded and delivered within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any game of chance.

5. *Advertising games:* No game of chance conducted or to be conducted in the City of Long Beach shall be advertised as to its location, the time when it is to be or has been played, or the prizes awarded or to be awarded, or transportation facilities to be provided to such game by means of newspapers, radio, television, or sound trucks, or by means of billboards, posters or handbills, or any other

means addressed to the general public except that one sign not exceeding twenty-four (24) square feet in area may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization, and when an organization is licensed to conduct games of chance on premises of an authorized game of chance lessor, one addition such sign may be displayed on or adjacent to the premises in which the games are to be conducted. Additional signs may be displayed upon any fire-fighting equipment belonging to any licensee which is a volunteer fire company, or upon any first-aid or first-aid and rescue squad in and throughout the communities served by such volunteer fire company or such first-aid or first-aid and rescue squad, as the case may be.

6. *Statement of receipts, expenses; additional license fees:* Within seven (7) days after the conclusion of any license period, the authorized organization which conducted the same, and its members who were in charge thereof, and when applicable the authorized organization which rented its premises therefor, shall each furnish to the city clerk a statement subscribed by the member in charge and affirmed by him as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom and each item of expense incurred or paid, and each item of expenditure made or to be made other than prizes; the name and address of each person to whom each such item of expense has been paid or is to be paid with a detailed description of the merchandise purchased or the services rendered therefor; the net proceeds derived from the conduct of games of chance during such license period and the use to which such proceeds have been or are to be applied; and a list of prizes offered and given with the respective values thereof; and it shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement.

7. *Examination of books and records; examination of officers and employees; disclosure of information:* The city clerk, the chief law enforcement officer of the City of Long Beach, and the New York State Racing and Wagering Board shall have power to examine or cause to be examined the books and records of:

   (a) Any authorized organization which is or has been licensed to conduct games of chance so far as they may relate to games of chance, including the maintenance, control and disposition of net proceeds derived from games of chance or from the use of its premises for games of chance, and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game under any such license, the use of its premises for games of chance, or the disposition of net proceeds derived from games of chance, as the case may be.

   (b) Any authorized games of chance lessor so far as it may relate to leasing premises for games of chance and to examine said lessor or any manager, officer, director, agent or employee thereof under oath in relation to such leasing. Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this article.

8. *Appeals from the decision of the city clerk to the New York State Racing and Wagering Board:* Any applicant for, or holder of, any license issued or to be issued under this article aggrieved by any action of the city clerk to whom such

application has been made or by whom such license has been issued, may appeal to the New York State Racing and Wagering Board from the determination of said city clerk by filing with such city clerk written notice of appeal within thirty (30) days after the determination or action appealed from, and upon the hearing of such appeal, the evidence, if any, taken before such city clerk and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the New York State Racing and Wagering Board upon said appeal shall be binding upon the city clerk and all parties to said appeal.

9. *Exemption from prosecution:* No person, association, corporation or organization lawfully conducting or participating in the conduct of games of chance or permitting the conduct upon any premises owned or leased by him or it under any license lawfully issued pursuant to this article shall be liable to prosecution or conviction for violation of any provision of Article two hundred twenty-five of the Penal Law or any other law or ordinance to the extent that such conduct is specifically authorized by this article, but this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of games of chance under any license obtained by any false pretense or by any false statement made in any application for license or otherwise, or permitting the conduct upon any premises owned or leased by him or it of any game of chance conducted under any license known to him or it to have been obtained by any such false pretense or statement.

(L.L. No. 6, 1976, § 1)

Sec. 321. Violations.

1. *Application for license, conduct of games:* Any person, association, corporation or organization who or which shall:

   (a) Make any material false statement in any application for any license authorized to be issued under this article;

   (b) Pay or receive for the use of any premises for conducting games of chance, a rental in excess of the amount specified as the permissible rent in the license provided for in section 315 of this article;

   (c) Fail to keep such books and records as shall fully and truly record all transactions connected with the conducting of games of chance or the leasing of premises to be used for the conduct of games of chance;

   (d) Falsify or make any false entry in any books or records so far as they relate in any manner to the conduct of games of chance, to the disposition of the proceeds thereof, and to the application of the rents received by any authorized organization;

   (e) Divert or pay any portion of the net proceeds of any game of chance to any person, association or corporation, except in furtherance of one or more of the lawful purposes as defined in this article;

   (f) Operate or conduct a game or games of chance:

      (1) Unless in accordance with a valid license issued pursuant to this article; or

(2) Unless on behalf of a bona fide organization of persons sixty (60) years of age or over, commonly referred to as "senior citizens," solely for the purpose of amusement and recreation of its members where (i) the organization has applied for and received an identification number from the New York State Racing and Wagering Board; (ii) no player or person furnishes anything of value for the opportunity to participate; (iii) the prizes awarded or to be awarded are nominal; (iv) no person other than a bona fide active member of the organization participates in the conduct of the games; and (v) no person is paid for conducting or assisting in the conduct of the game or games;

shall forfeit any license heretofore issued under this article, where applicable, and shall be ineligible to apply for a license under this article for at least one year thereafter, and, in addition, shall be guilty of a misdemeanor and subject to a fine of up to one thousand dollars ($1,000.00) or imprisonment for up to six (6) months, or both.

(L.L. No. 6, 1976, § 1)

Sec. 322. Effective date.

The provisions of this article shall remain inoperative in the City of Long Beach unless and until a proposition therefor submitted at a general election in the City of Long Beach shall be approved by a vote of the majority of the qualified electors in such municipality voting thereon. Upon approval by said electors, this article shall be effective on the first day of January next succeeding said election.

(L.L. No. 6, 1976, § 1)

Sec. 323. Amendments to this article.

This article may be amended from time to time or repealed by the city council of the City of Long Beach by a two-thirds vote of such city council, and such amendment or repeal, as the case may be, may be made effective and operative not earlier than thirty (30) days following the date of enactment of the Local Law affecting such amendment or repeal, as the case may be; and the approval of a majority of the electors of the City of Long Beach shall not be a condition prerequisite to the taking effect of such Local Law.

(L.L. No. 6, 1976, § 1)

Sec. 324. Severability.

If any provision of this article or the application thereof to the City of Long Beach to any person or any such particular circumstances shall be adjudged unconstitutional by any court of competent jurisdiction, the remainder of this article or the application thereof to the City of Long Beach or such other persons and circumstances shall not be affected thereby.

(L.L. No. 6, 1976, § 1)

Secs. 325--329. Reserved.

[ARTICLE 17. ENVIRONMENTAL QUALITY REVIEW ACT]

Sec. 330. Environmental Quality Review Act.

1. *Title.* This local law will be known as the City of Long Beach Environmental Quality Review Act.

2. *Purpose.* The purpose of this law is to implement the provisions of the State Environmental Quality Review Act and the State Environmental Quality Review Regulations, as amended, and the New York State Waterfront Revitalization Coastal Resources Act of 1981, thereby incorporating environmental factors and consideration of coastal resources into existing planning and decision-making processes.

3. *Authority.* This law is adopted under authority of the Municipal Home Rule Law, the State Environmental Quality Review Act, the State Environmental Quality Review Regulations, as amended, and the New York State Waterfront Revitalization and Coastal Resources Act of 1981.

4. *Applicability.* All boards, departments, offices, other bodies or officers of the City of Long Beach must comply with the State Environmental Quality Review Act, the State Environmental Quality Review Regulations and this local law, to the extent applicable, prior to carrying out, approving or funding any action, other than an Exempt, Excluded or Type II action.

5. *Severability.* The provisions of this local law are severable. If any part of this local law is found invalid, such finding will apply only to the particular provision in question.

6. *Definitions.*

   a. "Action" means a Type I or unlisted action including:

      (1) A project or physical activity, such as construction or other activities, which may effect the environment by changing the use or appearance of any natural resource or structure which:

         (a) Is directly undertaken by an agency, or

         (b) Involves funding by an agency, or

         (c) Requires one or more new or modified approvals from an agency or agencies;

      (2) Planning or policy-making activity of an agency that may affect the environment and commit the agency to a course of future decisions;

      (3) Adoption of agency rules, regulations, and procedures including local laws, codes, ordinances, executive orders, and resolutions that may affect the environment; and

      (4) A combination of the above.

   b. "Agency" means any department, board, commission or council or other

agency of the City of Long Beach which has jurisdiction by law to approve, fund or directly undertake a given action.

c. "CAF" means Coastal Assessment Form.

d. "City" means the City of Long Beach.

e. "City Council" means the City Council of the City of Long Beach.

f. "Determination of Consistency" means a notice prepared by the Long Beach Planning Department or other appropriate agency and filed with the Clerk of the City of Long Beach, which notice shall contain:

(1) A finding that the action will not substantially hinder the achievement of any of the LWRP policy standards and conditions which reflect the policies of the LWRP; or

(2) If the action will substantially hinder the achievement of any LWRP policy standards and conditions of the LWRP, a finding that the following three requirements are satisfied: (i) no reasonable alternatives exist which would permit the action to be undertaken in a manner which would not substantially hinder the achievement of such policy; (ii) the action will minimize all adverse effects on such policy to the maximum extent practicable; and (iii) the action will result in an overriding regional or state-wide public benefit. Such certification shall constitute a determination that the action is consistent with the LWRP; or

(3) A finding that the action is not consistent with the LWRP standards and policy conditions reflecting the policies of the LWRP, since it would substantially hinder the achievement of one or more of such standards and conditions and would not satisfy all of the requirements identified in (2) just above;

(4) A brief statement and precise description of the nature, extent and location of the action; and

(5) A brief statement of the reasons supporting the determination.

g. "EAF" means Environmental Assessment Form.

h. "EIS" means Environmental Impact Statement.

i. "Excluded action" means:

(1) Actions undertaken, funded or approved prior to the effective dates set forth in SEQR (see Chapters 228 of the Laws of 1976, 252 of the Laws of 1977 and 460 of the Laws of 1978), except:

(i) In the case of an action where it is still practicable either to modify the action in such a way as to mitigate potentially adverse environmental effects, or to choose a feasible or less environmentally damaging alternative, the Building Commissioner may, on motion, or at the request of any person, or on his own motion, require the preparation of an environmental impact statement; or

(ii) In the case of an action where the responsible agency proposes a modification of the action and the modification may result in a significant adverse effect on the environment, an environmental impact statement shall be prepared with respect to such modification.

(2) Actions requiring a certificate of environmental compatibility and public need under Article VII of the Public Service Law and the consideration of, granting or denial of any such certificate; and

(3) Actions subject to the jurisdiction of the Adirondack Park Agency pursuant to section 809 of the Executive Law, including actions of the Adirondack Park Agency thereunder, and actions subject to the jurisdiction of local governments pursuant to section 808 of the Executive Law and actions of such local governments pursuant thereto.

j. "Exempt action" means any one of the following:

(1) Civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;

(2) Official acts of a ministerial nature, involving no exercise of discretion;

(3) Maintenance or repair involving no substantial changes in an existing structure or facility;

(4) Emergency actions which are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part; and

(5) Actions of the Legislature of the State of New York or of any court. Actions of local legislative bodies are not exempt.

k. "Lead Agency" means an agency principally responsible for carrying out, funding, or approving an action and therefore responsible for determining whether an EIS is required in connection with the action and for causing the preparation and filing of the EIS if one is required.

l. "Local Waterfront Revitalization Program (LWRP)" means the local program to implement the NYS Coastal Management Program within the City of Long Beach as approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981.

m. "Planning Department" is the City of Long Beach Planning Department.

n. "State Environmental Quality Review Act (SEQR)" means Article 8 of the Environmental Conservation Law of the State of New York.

Sec. 330. Environmental Quality Review Act.

o. "State Environmental Quality Review Regulations (Part 617)" means Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR).

p. "Type I actions" include the following, if it is directly undertaken, funded, or approved by an agency:

(1) The adoption of the City's land use plan or zoning regulations or the adoption by any agency of a comprehensive resource management plan.

(2) The adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district, including authorizing industrial or commercial uses within a residential district.

(3) The granting of a zoning change at the request of an applicant, for an action that meets or exceeds one or more of the thresholds given in other sections of this list.

(4) The acquisition, sale, lease, annexation or other transfer of 100 or more continuous acres of land by a State or local agency.

(5) Construction of new residential units which meet or exceed the following thresholds:

(i) 50 units not to be connected (at commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(ii) 250 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works.

(6) Activities, other than the construction of residential facilities, which meet or exceed any of the following thresholds; or the expansion of existing non-residential facilities by more than 50 percent of any of the following thresholds:

(i) A project or action which involves the physical alteration of 10 acres;

(ii) A project or action which would use ground or surface water in excess of 2,000,000 gallons per day;

(iii) Parking for 1,000 vehicles;

(iv) A facility with more than 100,000 square feet of gross floor area.

(7) Any structure exceeding 100 feet above original ground level.

(8) Any unlisted action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site listed on the National Register of Historic Places, or that has been proposed by

the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in said National Register, or that is listed on the State Register of Historic Places.

(9) Any unlisted action, which exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly-owned or operated park land, recreation area or designated open space.

(10) Any unlisted action which exceeds a Type I threshold established by an agency pursuant to 6 NYCRR 617.4.

(11) Any unlisted action which takes place wholly or partially within or substantially contiguous to any Critical Environmental Area designated by a local agency or State agency pursuant to 6 NYCRR 617.4.

q. "Type II actions" include:

(1) Replacement of a facility, in kind, on the same site unless such facility meets any of the thresholds listed under Type I actions;

(2) The granting of individual setback and lot line variances;

(3) Repaving of existing highways not involving the addition of new travel lanes;

(4) Street openings for the purpose of repair or maintenance of existing utility facilities;

(5) Installation of traffic control devices on existing streets, roads, and highways;

(6) Public or private forest management practices other than the removal of trees or the application of herbicides or pesticides;

(7) Construction or placement of minor structures accessory or appurtenant to existing facilities including garages, carports, patios, home swimming pools, fences, barns or other buildings not changing land use or density;

(8) Maintenance of existing landscaping or natural growth;

(9) Mapping of existing roads, streets, highways, uses and ownership patterns;

(10) Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;

(11) Purchase or sale of furnishings, equipment or supplies, including surplus government property, other than land, radioactive material, pesticides, herbicides, or other hazardous materials;

(12) Collective bargaining activities;

(13) Investments by or on behalf of agencies or pension or retirement

systems, or refinancing existing debt;

(14) Routine or continuing agency administration and management not including new programs or major reordering of priorities;

(15) License, lease, and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities;

(16) Routine activities of educational institutions which do not include capital construction;

(17) Information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurficial investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action;

(18) Minor temporary uses of land having negligible or no permanent effect on the environment;

(19) The extension of utility distribution facilities to serve new or altered single- or two-family residential structures or to render service in approved subdivisions; and

(20) Promulgation of regulations, policies, procedures and legislative decisions in connection with any Type II action.

r. "Unlisted Action" means any action not excluded or exempt or listed as Type I or Type II action.

s. All other terms for which definitions are given in SEQR and/or 6 NYCRR Part 617 shall have the same meanings in this local law.

7. *Environmental Review Procedures.*

a. *Environmental Administration.* The City Manager shall appoint an Environmental Administrator who shall be delegated the authority to coordinate among City agencies the procedures of the New York State Environmental Quality Review Act. The appointment must be made in writing and filed with the City Clerk. In the absence of any such appointment by the City Manager, the Planning Director or Building Commissioner of the City shall be appointed to serve as the Environmental Administrator.

b. *Initial Review.*

(1) With regard to an application for an action involving funding or approval by the City or which will be undertaken by the City, the Environmental Administrator shall:

(a) Advise each applicant, when an application is involved, and each agency whether a proposed action is subject to the provisions of SEQR and this local law.

(b) Provide each applicant and each agency with an Environmental Assessment Form (EAF) and where

appropriate, a Coastal Assessment Form (CAF) pursuant to Section 7c of this Chapter.

c. *Environmental and Waterfront Assessment Forms.*

(1) When any agency contemplates directly carrying out, funding, or approving any Type I or Unlisted action, an EAF must be prepared by it or on its behalf.

(2) When an applicant submits an application for funding or a permit or other approval of a Type I or Unlisted action to any agency of the City an EAF must accompany the application. An applicant may choose to prepare a Draft EIS in place of an EAF.

(3) When, pursuant to Section 7b, the initial review determines that a Type I or Unlisted action is contemplated, the applicant, and in the case of a direct or funding action, the agency shall prepare a (CAF) to accompany the application.

d. *Determination of Lead Agency and Referral for Consistency.*

(1) Upon receipt by the Environmental Administrator of a completed EAF and where appropriate, a completed CAF, the Environmental Administrator will determine whether it involves one or more agencies. The Environmental Administrator will distribute a copy of the application and completed EAF/CAF to all involved agencies for the designation of lead agency in accordance with the procedures set forth in 6 NYCRR Section 617.6 (Type I and Unlisted actions).

(2) Where no federal or state agency funds, permits or approvals are necessary:

(a) The City Council is the lead agency for the determination of environmental significance and consistency for the following actions:

(i) Adoption, amendment or change of zoning and land use regulations;

(ii) Construction or expansion of municipal buildings, structures, and other facilities including highways within the City; and

(iii) Purchase, sale and/or lease of real property by the City.

(b) The Board of Appeals is the lead agency for the determination of environmental significance and consistency for zoning appeals, special exception uses and variance applications.

(c) For all other actions, agencies will be designated lead agency for the determination of environmental significance and consistency under the procedures referred to in Section 7d(1).

e. *Determination of Environmental Significance.*

(1) The lead agency must make a determination of environmental significance of the action. This determination must be based on the EAF and on such other information as the lead agency may require. The criteria listed in 6 NYCRR Section 617.7 must be considered by the lead agency in making its determination of significance. The determination must be made within twenty (20) days of the date of lead agency designation, or within twenty (20) days of its receipt of all information required by the lead agency to make the determination of significance, whichever is later.

(2) If the lead agency makes a determination of non-significance, decision making on the action shall proceed with regard to Section 7h of this Chapter.

(3) If the lead agency makes a determination that the action may have a significant effect on the environment, an environmental impact statement will be required and the provisions of Section 7f through 7h of this Chapter, inclusive, shall apply.

f. *Environmental Impact Statements.*

(1) EIS Preparation and Procedures.

(a) When required pursuant to Section 7e of this Chapter, an EIS must be prepared in accordance with:

(i) The environmental impact statement procedures as provided under 6 NYCRR Section 617.9 and the requirements for preparation and content of environmental impact statements as provided under 6 NYCRR Section 617.9.

(ii) When the EIS is prepared for a proposed action, it must also contain an identification of the applicable LWRP policy standards and conditions of the City of Long Beach LWRP as required by Section 7h, and a discussion of the effects of the proposed action with regard to such policy standards and conditions.

(2) Fees for Review and Preparation of EIS's.

(a) The fees for publication of notices and for review or preparation of an EIS involving approval or funding of an action will be fixed from time to time by resolution of the City Council.

(b) Fees so fixed will be consistent with the limitations set by 6 NYCRR Section 617.13. When the EIS is prepared by the applicant, fees will reflect actual expenses of reviewing it and for the publication of notices. When the EIS is prepared by an agency on behalf of the applicant, fees will reflect the cost of preparation, including publication of

notices, but not the cost of environmental review by the agency. However, the lead agency may not charge a fee for its determination of significance.

(3) Decisions and Findings for Actions Subject to EIS's. Each agency of the City involved in undertaking, approving or funding an action, which is the subject of an EIS, shall make detailed written findings in accordance with the provisions of 6 NYCRR Section 617.11, prior to making its decision.

g. *Notices and Filing.* All notices, EAF's, CAF's, Draft EIS's, Final EIS's and all other documents shall be prepared, filed, circulated and made available as prescribed under 6 NYCRR Section 617.12 and this Chapter.

h. *Consistency.*

(1) Prior to making a decision on a proposed action, the lead agency shall make a determination that it is consistent with the LWRP policy standards and conditions set forth in Section 7h(5). No action shall be approved, funded or undertaken without this determination.

(2) Prior to making the determination of consistency, the lead agency shall solicit and consider the recommendation of the Environmental Administrator with reference to the consistency of the proposed action. After receipt of a completed CAF for an action, the Environmental Administrator shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Section 7h(5). The Environmental Administrator shall require the applicant to submit any completed applications, EAFs and information deemed to be necessary to his/her consistency recommendation.

(3) The Environmental Administrator shall render his/her written recommendation to the lead agency within thirty (30) days following the submission by the applicant of the required information, unless extended by mutual agreement of the applicant and the Environmental Administrator.

The recommendation shall indicate whether, in the opinion of the Environmental Administrator, the proposed action is consistent or inconsistent with one or more of the LWRP policy standards or conditions. The recommendation shall state the manner and extent to which any inconsistency affects the LWRP policy standards and conditions.

The Environmental Administrator shall, along with his/her consistency recommendation, make any suggestions to the lead agency concerning modification of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them.

In the event that the Environmental Administrator recommendation is not forthcoming within the specified time, the application shall be deemed to have received a recommendation that it is

consistent with the policy standards and conditions.

(4) The lead agency shall make the determination of consistency based on the EAF, the CAF, the Environmental Administrator recommendation and such other information as is deemed to be necessary in its determination. The lead agency shall issue its determination within fourteen (14) days of the date for receipt of the Environmental Administrator recommendation.

(5) Actions shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are further explained and described in Section III of the City of Long Beach LWRP, a copy of which is on file in the City Clerk's office and available for inspection during normal business hours. The action shall be consistent with the policy to:

(a) Revitalize and redevelop deteriorating and underutilized waterfront areas for commercial, industrial, and recreational uses (Policies 1, 1A, 1B).

(b) Retain and promote recreational and commercial water-dependent uses (Policies 2, 2A, 2B).

(c) Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).

(d) Streamline development permit procedures (Policy 6).

(e) Protect significant fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 8).

(f) Maintain and expand shellfish populations for commercial and recreational use (Policies 9, 10).

(g) Minimize flooding and erosion hazards through non-structural means and carefully-selected, long-term structural measures (Policies 11, 12, 13, 13A, 13B, 14, 15, 16, 17).

(h) Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 2A, 2B, 19, 19A, 19B, 19C, 20, 20A, 21, 21A, 21B, 21C, 22).

(i) Protect and restore historic and archeological resources (Policy 23).

(j) Protect and upgrade scenic resources (Policies 25, 25A, 25B, 25C).

(k) Operate existing power plants in an environmentally sound manner and expand them only if compatible with the waterfront. Waterborne shipment and transfer of fuel for power plants is prohibited (Policies 27, 27A).

(l) Ensure that ice management practices do not damage

significant fish and wildlife habitats, increase shoreline erosion or flooding, or interfere with the production of hydroelectric power (Policy 28).

(m) Protect surface and groundwaters from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 33, 34, 36, 37, 38).

(n) Perform dredging and dredge spoil disposal in a manner protective of natural resources (Policies 15, 35).

(o) Handle and dispose of hazardous wastes in a manner which will not adversely affect the environment nor expand existing landfills (Policy 39).

(p) Protect fish and wildlife and water quality from effluent discharged from major steam electric generating and industrial facilities (Policy 40).

(q) Protect air quality (Policy 41).

(r) Protect tidal and freshwater wetlands (Policy 44).

i. If the lead agency determines that the action would cause a substantial hindrance to the achievement of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency determines with respect to the proposed action that:

(1) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;

(2) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions to the maximum extent practicable; and

(3) The action will result in an overriding City, regional or state-wide public benefit.

Such a finding shall constitute a determination that the action is consistent with the policy standards and conditions.

j. Each agency shall maintain a file for each action made the subject of a consistency determination, including a Determination of Consistency pursuant to Section 6f of this chapter, any recommendations received from the Environmental Administrator, and any findings pursuant to Section 7d(2) of this Chapter. Such files shall be made available for public inspection upon request.

8. *Effective Date.* This local law shall take effect immediately after the following have both occurred:

a. Filing of the local law in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law, and

b. Approval of the City of Long Beach Local Waterfront Revitalization Program by the Secretary of State in accordance with Article 42 of the

Executive Law of New York State.

(L.L. No. 3, 1988, § 1; L.L. No. III/2021, 2021)

Editor's note: L.L. No. 3, 1988, § 1, adopted June 21, 1988, repealed former § 330 in its entirety and enacted new provisions therefor. Former § 330, concerning similar provisions, derived from L.L. No. 3, 1977, § 1, adopted May 17, 1977; and L.L. No. 1, 1988, § 1, adopted February 2, 1988.

Secs. 331--334. Reserved.

ARTICLE 18. CLAIMS AGAINST FIRE INSURANCE PROCEEDS

Sec. 335. Definitions.

As used in this article, any inconsistent provision of law notwithstanding, the following terms shall have the following meanings:

(a) "Treasurer" means the city treasurer.

(b) "Real property" means property upon which there is erected any residential, commercial or industrial building or structure except a one- or two-family residential structure.

(c) "Lien" means any lien including liens for taxes, special ad valorem levies, special assessments and municipal charges arising by operation of law against property in favor of the city and remaining undischarged for a period of one (1) year or more.

(d) "Board" means the board created by section 339 of this article.

(e) "Special lien" means a lien upon fire insurance proceeds pursuant to this article and section 22 of the General Municipal Law.

(f) "Fund" means the fire insurance proceeds fund created pursuant to section 344 of this article.

(L.L. No. 4, 1978, § 1)

Sec. 336. [Treasurer to file notice of intent.]

The treasurer shall file a notice of intention to claim against the proceeds of fire insurance policies pursuant to section twenty-two of the General Municipal Law with the state superintendent of insurance for entry in the index of liens maintained by him as provided in section thirty-three-a of the Insurance Law.

(L.L. No. 4, 1978, § 1)

Sec. 337. [Claim to constitute special lien.]

Prior to the payment of any proceeds of a policy of insurance for damages caused by fire to real property, which policy insures the interest of an owner and is issued on real property located within the city, and following notification to the treasurer by an insurer of the filing of a claim for payment of such proceeds, the treasurer shall claim, by serving a certificate of lien, against such proceeds to the extent of any lien (including interest and penalties to the date of the claim) thereon, which claim when made and perfected in the manner provided for in section twenty-two of the General Municipal Law and section thirty-three-a of the Insurance Law, shall constitute a special lien against such proceeds and shall, as to such proceeds, be prior to all other liens and claims except the claim of a mortgagee of record named in such policy. Notice of the service of the certificate of the special lien shall be given to the insured by certified mail.

(L.L. No. 4, 1978, § 1)

Sec. 338. [Article does not impair right of city to acquire or enforce lien.]

The provisions of this article shall not be deemed or construed to alter or impair the right of the city to acquire or enforce any lien against property but shall be in addition to any other power provided by law to acquire or enforce such right.

(L.L. No. 4, 1978, § 1)

Sec. 339. [Establishment of fire insurance proceeds claims board.]

The fire insurance proceeds claims board is hereby established to administer the provisions of sections 340 through 347 of this article. The board shall consist of the city manager, who shall be chairman, the building commissioner, the city treasurer, the city comptroller and the corporation counsel, each of whom shall have the power to designate an alternate to represent him at board meetings with all the rights and powers, including the right to vote, reserved to all board members, provided that such designation shall be in writing to the chairman. So far as practicable and subject to the approval of the city manager, the services of all other city departments and agencies shall be made available by their respective heads to the board for the carrying out of its functions. Each member shall serve without additional compensation except for expenses actually incurred.

(L.L. No. 4, 1978, § 1)

Sec. 340. [Release of proceeds to insured--Notification.]

Whenever the proceeds of a policy of fire insurance which will be or has been paid to the city instead of an insured, all or part of such proceeds may be paid or released to the insured if the insured satisfies the board that the affected premises have been or will be repaired or restored, that such repairs or restoration are in the public interest, and the insured is issued and complies with a certificate of the board pursuant to this article. To secure such payment or release of proceeds the insured must notify the board within forty-five (45) days after the mailing to the insured of a notice of the service of the certificate of special lien pursuant to section 337 of this article, of the intention to restore or repair the affected premises and must file with the board a completed application with all required supporting documentation pursuant to section 341 of this article within sixty (60) days thereafter, unless the board grants an extension for a stated period of time.

(L.L. No. 4, 1978, § 1)

Sec. 341. [Same--Conditions.]

The release or return to the insured of any amounts to which he or it would otherwise be entitled to claim shall be subject to the following conditions:

(a) Such release or return shall be subject to the repair or restoration of the affected premises, in accordance with applicable building laws, to the condition it was in prior to the time the lien of the city arose, or to an improved condition.

(b) The insured shall file with the board an application in affidavit form, with such supporting documentation as the board shall require, containing the

following:

(i) A complete description of the nature and extent of the damage to the insured premises and of the condition of the premises prior to the time the lien of the city arose;

(ii) A complete description of the nature of the repairs or restoration to be undertaken and the cost thereof;

(iii) A statement as to the source of funds needed to complete such repairs or restoration if the insurance proceeds are not sufficient therefor;

(iv) The name and address of each contractor who will effect such repairs or restoration;

(v) An estimated time schedule showing how long the repairs or restoration, and each phase thereof, will take; and,

(vi) Such other information as may be required by the board to enable it to determine whether the repairs or restoration are in the public interest and will be or have been timely and properly made.

(c) Upon a preliminary approval by the board of an application pursuant to paragraph (b) of this section, the board may issue a certificate, to be signed by the chairman or his designee, evidencing the right of release to the insured of amounts representing insurance proceeds, upon such conditions as may be set forth therein. The repairs or restoration required by the board shall be completed in compliance with the terms and conditions of the certificate prior to the release or return of any part of the insurance proceeds, provided however that the board may, upon the written request of the insured and in its sole discretion, approve a prior release of such proceeds or a portion thereof, in a lump sum or in installments, where the insured certifies and demonstrates that such release is required to permit such repairs or restoration to go forward. Any such insurance proceeds released or returned prior to the completion of the repairs or restoration required by the board may be paid directly to the contractor or contractors responsible for making such repairs or restoration. Such payment shall, to the extent thereof, release the board from further liability to the insured.

(L.L. No. 4, 1978, § 1)

Sec. 342. [Conditions for termination of claim.]

If the insured (i) fails to notify the city of his or its intention to repair or restore the affected premises as required in section 340 of this article, (ii) fails to file a completed application pursuant to this article, or (iii) fails to obtain a certificate from the board or comply therewith within the time set forth, the right of the insured to assert a claim against the insurance proceeds, except to the extent they exceed the amount of the lien, shall terminate.

(L.L. No. 4, 1978, § 1)

Sec. 343. [Proceeds deposited in special fund.]

Until such termination, any insurance proceeds received by the city shall be deposited in a special fund and shall be retained therein. Upon termination of the insured's right to claim against the proceeds, the proceeds and any interest accrued thereon shall be applied to the liens affecting the premises in a manner to be determined by the board and may be transferred to the general fund.

(L.L. No. 4, 1978, § 1)

Sec. 344. [Establishment of fire insurance proceeds fund.]

There shall be established in the office of the treasurer a fund for the deposit of fire insurance proceeds to be held and applied in accordance with this article. Such funds shall not be held together with the general tax levies in the general fund.

(L.L. No. 4, 1978, § 1)

Sec. 345. [Continuation of lien.]

The lien or liens against the affected premises upon which the special lien against proceeds is based shall continue in full force and effect except to the extent that such lien or liens are or have been paid.

(L.L. No. 4, 1978, § 1)

Sec. 346. [Release, compromise, adjustment of special lien.]

The board may, pursuant to this article, release, compromise or adjust the special lien upon insurance proceeds created by this article. Any certificate issued by such board pursuant to this article shall be for the purpose of preserving and evidencing the right of release of the special lien created by this article, shall be subject solely to the provisions of this article, and shall not be deemed to be a contract subject to city regulation. Any repair or restoration performed in anticipation of a release of insurance proceeds shall not be deemed to be a public work or municipal project nor to have been done pursuant to a municipal contract.

(L.L. No. 4, 1978, § 1)

Sec. 347. [Right of board to promulgate rules.]

The board shall be empowered to promulgate rules and regulations and to adopt approved forms to be used by applicants.

(L.L. No. 4, 1978, § 1)

Sec. 348. [Severability.]

If any provisions of this article shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, it is the purpose and intent of this article that the provisions hereof shall nevertheless be separate and fully effective and the application of any such provision to other persons or situations shall not be affected.

(L.L. No. 4, 1978, § 1)

ARTICLE 19. AUTHORIZATION TO CONDUCT PUBLIC MEETINGS USING VIDEOCONFERENCE TECHNOLOGY

Sec. 350. Legislative Intent.

It is the intent of this local law to authorize the City of Long Beach to conduct various meetings consistent with the videoconferencing provisions of Public Officers Law § 103-a and the videoconferencing polices adopted by the City Council.

(L.L. No. IV, 2022, § 1, 7/19/2022)

Sec. 351. Authority.

This local law is adopted pursuant to Public Officers Law § 103-a, which expressly authorizes the City Council to adopt local legislation, authorizing the use of videoconferencing.

(L.L. No. IV, 2022, § 1, 7/19/2022)

Sec. 352. Videoconferencing for Public Meetings.

The City Council of the City of Long Beach hereby authorizes the City's use of videoconferencing when conducting meetings of all of its public bodies who are otherwise subject to the requirements of Article 7 of the Public Officers Law, also known as the Open Meetings Law, subject to the following:

1. A quorum of the members are physically present at the meeting in one or more physical locations at which members of the public may attend the meeting.

2. Members are physically present at the meeting location(s) at which the public can attend in person unless a member is unable to be physically present due to extraordinary circumstances:

a. Extraordinary circumstances is defined to include any disability or illness, caregiving responsibilities, or any significant or unexpected factor or event that precludes the member's physical attendance at such meeting.

b. Extraordinary circumstances must be certified by email or other written means to the City Clerk by the member in accordance with the City's videoconferencing policies and procedures and not less than 72 hours prior to any meeting.

3. Except in the case of executive sessions conducted pursuant to Public Officers Law § 105, members must be able to be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon.

4. The minutes of meetings involving videoconferencing must include which, if any, members that participated using videoconferencing technologies.

a. Such minutes must be made available to the public pursuant to Public Officers Law § 106.

b. Any meeting that uses videoconferencing must be recorded and such recordings must be posted to or linked on the City's website within five business days of the meeting. The recordings must remain available for a minimum of five years thereafter and recordings must be transcribed upon request.

5. The public notice for any meeting involving videoconferencing must:

a. Inform the public that:

i. videoconferencing will or may be used,

ii. where members of the public can view and/or participate in such meeting via videoconference, and

iii. where required documents and records will be posted or available; and

b. Identify the physical location(s) where members will be physically present at the meeting and where members of the public can attend the meeting in person.

6. Members of the public are able to view the video broadcast of any meeting using videoconferencing simultaneously when the meeting is conducted. Additionally, at meetings where public comment or participation is authorized, members of the public are able to participate in the proceedings using videoconference technologies in real time and with the same opportunities for public participation or testimony as in-person participation or testimony.

7. T he City's public bodies may conduct meetings entirely by videoconference, with no in-person requirement, provided that:

a. A state of emergency is declared by the Governor of the State of New York pursuant to Executive Law § 28, or

b. A local state of emergency for the City is declared by the City Manager and/or the Nassau County Executive pursuant to Executive Law § 24, and the City Council determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in-person meeting.

8. Whenever a Public Body invokes the emergency exception as defined in paragraph 7 and takes action at such meeting without allowing members of the public to be physically present, the Public Body must acknowledge the previous meeting(s) and summarize any action(s) taken thereat at the next immediate meeting where the public is allowed to attend. The Public Body must produce minutes of such emergency meetings pursuant to the requirements of Public Officers Law § 106.

(L.L. No. IV, 2022, § 1, 7/19/2022)

Sec. 353. Severability.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

(L.L. No. IV, 2022, § 1, 7/19/2022)

Sec. 353. Severability.

Subpart B RELATED ACTS*

***Editor's note:** This subpart contains acts of the legislature which apply directly to the city, but which are not amendatory of the charter. The acts are set out in chronological sequence, with any amendments worked in. The source of the section and any amendments thereof appear in a history note following each section. The substance of the acts contained in this subpart are as enacted by the legislature; however, the numbering system has been revised to facilitate indexing and reference. Where the editor has added words of clarification, such words appear in brackets.

Art. I. [Cancellation of Assessments for Beach Property Acquisition], §§ 1--9
Art. II. Arterial Highways, §§ 10--15
Art. III. Long Beach Housing Authority, §§ 16--21
Art. IV. Assessment and Collection of Taxes in the City School District, §§ 22--37
Art. V. Volunteer Firemen's Benefits, §§ 38--44
Art. VI. Long Beach Urban Renewal Agency, § 45

ARTICLE I. [CANCELLATION OF ASSESSMENTS FOR BEACH PROPERTY ACQUISITION]

Sec. 1. [Cancellation of assessments upon specific properties authorized.]

The city council of the City of Long Beach, the board of assessors of said city and the city treasurer of said city are hereby authorized and empowered to cancel and annul all assessments heretofore levied to pay for the "Beach Properties Acquisition" and the "Beach Improvement Assessment" which are now or hereafter may become a lien upon property in said city as follows:

> Upon the real property owned by Peoples' Church in the City of Long Beach, which said real property is known and designated upon the assessment roll of the City of Long Beach as lots Nos. 10 to 13 in block No. 8, section 1; upon the real property owned of St. Ignatius Martyr R. C. Church in the City of Long Beach, which said real property is known and designated upon the assessment roll of the City of Long Beach as lots Nos. 20 to 25, 26, 27 to 30, 31 to 40, 51 to 70 in block 7, section 2, and lots Nos. 66, 67 and 1/268 [*sic*] in block 6, section 2; upon the real property owned by St. Mary of the Isle R. C. Church in the City of Long Beach, which said real property is known and designated upon the assessment roll of the City of Long Beach as lots Nos. 1 to 8 and 36 to 44 in block No. 140, section 4; and upon the real property owned by St. John's Lutheran Church By the Sea in the City of Long Beach, which said real property is known and designated upon the assessment roll of the City of Long Beach as lots Nos. 42 to 45 in block No. 98, section 3; upon the real property owned by the Franciscan Sisters in the City of Long Beach, which said real property is known and designated upon the assessment roll of the City of Long Beach as lot No. 4 in block No. 61, section 1; upon the real property owned by Temple Israel in the City of Long Beach, which said real property is known and designated upon the assessment roll of the City of Long Beach as lots Nos. 31, 32 and 1/233 [*sic*] in block No. 97, section 3, and lots Nos. 61 to 65 and 66 to 70 in block No. 97,

section 3; upon the real property owned by Temple Beth-El in the City of Long Beach, which said real property is known and designated upon the assessment roll of the City of Long Beach as lots Nos. 1 to 3, in block 25, section 2; upon the real property owned by St. James Episcopal Church in the City of Long Beach, which said real property is known and designated upon the assessment roll of the City of Long Beach as lots Nos. 31 to 40 in block 63, section 2; upon the real property owned by First Church of Christ Scientist in the City of Long Beach which real property is known and designated upon the assessment roll of the City of Long Beach as lots Nos. 36 to 42, inclusive, in block No. 111, section 3; and upon the real property owned by Long Beach Hospital in the City of Long Beach, which said real property is known and designated upon the assessment roll of the City of Long Beach as lots Nos. 7 to 35 in block No. 147, section 4 and lots Nos. 17 and 18 in block No. 148, section 4.

(L. 1938, Ch. 215, § 1; L. 1941, Ch. 684, § 1; L. 1944, Ch. 517, § 1)

Sec. 2. [Assessments directed to be cancelled.]

The city council of the City of Long Beach, the board of assessors, and the city treasurer of the City of Long Beach are hereby authorized and directed to cancel and annul all assessments which are now or may hereafter become a lien upon the real property of the religious and eleemosynary institutions mentioned in section one hereof levied to pay for the erection of any boardwalks, jetties, comfort stations or other improvements authorized, pursuant to chapter three hundred seventy-three of the laws of nineteen hundred thirty-four.

(L. 1938, Ch. 215, § 2)

Sec. 3. [Taxes to be collected in lieu of cancelled assessments.]

The council of the City of Long Beach shall include in each annual tax budget and cause to be raised annually by taxation a sum equal to the annual installments which would have been due and payable from the corporations mentioned in section one hereof and, immediately upon receipt of such tax moneys by the City of Long Beach, the treasurer of the city shall transfer the total annual installment due to the assessment account, and such sum shall be applied to the payment of the principal of and/or interest on the installment of such assessment due in the next ensuing fiscal year.

(L. 1938, Ch. 215, § 3)

Sec. 4. [Correction of records.]

The city treasurer, the board of assessors and the city clerk, shall correct, revise and prepare all of the city's books and rolls of taxes in accordance with the provisions of this act.

(L. 1938, Ch. 215, § 4)

[Secs. 5--9. Reserved.]

ARTICLE II. ARTERIAL HIGHWAYS

Sec. 10. [Laws 1936, Chapter 63 amended.]

Section three hundred forty-nine of chapter sixty-three of the laws of nineteen hundred thirty-six, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as added by chapter five hundred forty-three of the laws of nineteen hundred forty-four, is hereby amended by adding a new heading and paragraph, to follow the paragraphs under the heading "City of Lockport," and to read as follows:

City of Long Beach

Beginning at the westerly Long Beach city line, Park Avenue, thence easterly along Park Avenue to the easterly Long Beach city line, connecting with Long Beach Expressway as projected in subdivision twenty-nine of section three hundred forty-one of the highway law. Approximate length three miles.

(L. 1946, Ch. 914, § 1)

[Secs. 11--15. Reserved.]

ARTICLE III. LONG BEACH HOUSING AUTHORITY

Sec. 16. [Public Authorities Law amended; Long Beach Housing Authority created.]

The Public Authorities Law is hereby amended by inserting therein as a part of article six thereof a new title, to be title twenty-nine, to read as follows:

TITLE 29

Section 1290. Long Beach Housing Authority.

§ 1290. *Long Beach Housing Authority.* A municipal housing authority, to be known as the Long Beach Housing Authority, is hereby created and established for the accomplishment of any or all of the purposes specified in article eighteen of the constitution of the State of New York. It shall constitute a body corporate and politic and consist of five members who shall be qualified electors of the City of Long Beach. It shall have the powers and duties now or hereafter conferred by the Public Housing Law upon municipal housing authorities. It shall be organized in the manner prescribed by and subject to the provisions of the Public Housing Law, and the authority, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of the Public Housing Law. The city council of the City of Long Beach may appropriate and pay over to the authority out of general city funds and as a city charge a sum not to exceed ten thousand dollars for purposes of organization, administration, investigation, planning and report.

(L. 1947, Ch. 644, § 1)

[Secs. 17--21. Reserved.]

ARTICLE IV. ASSESSMENT AND COLLECTION OF TAXES IN THE CITY SCHOOL DISTRICT

Sec. 22. [Nassau County Administrative Code, section 5-2.0, amended as to definition of "school districts."]

Subdivision eight of section 5-2.0 of the Nassau County Administrative Code, as enacted by chapter two hundred seventy-two of the laws of nineteen hundred thirty-nine, as renumbered by chapter eight hundred forty-five of the laws of nineteen hundred thirty-nine, is hereby amended to read as follows:

> 8. The term "school district" means every school district in the county except those school districts coterminus [*sic*] with the limits of an incorporated city or village.

(L. 1951, Ch. 741, § 1)

Sec. 23. [Nassau County Administrative Code amended to provide that city school district is a district of the Town of Hempstead.]

Section 5-6.0 of such law is hereby amended to read as follows:

> § 5-6.0 *School district or special district funds.* Each town, after the filing of the undertaking of the receiver of taxes, shall be responsible for the payment to each school district or special district in such town, of the amount collected by the receiver of taxes for such school district or special district. For the purposes of this section, the city school district of the City of Long Beach shall be deemed a school district in the Town of Hempstead.

(L. 1951, Ch. 741, § 2)

Sec. 24. [Nassau County Administrative Code amended as to property subject to taxation.]

Subdivision a of section 5-9.0 of such law, as last amended by chapter eight hundred forty-five of the laws of nineteen hundred thirty-nine, is hereby amended to read as follows:

> a. It shall be the duty of the receiver of taxes of each town to collect all state, county, school district and special district taxes levied or assessed upon any property subject to taxation within such town for the state, county, town, school or special district or parts thereof in such town.
>
> b. For the purpose of the collection of school district taxes, all the property within the city school district of the City of Long Beach shall be deemed property subject to taxation within the Town of Hempstead.

(L. 1951, Ch. 741, § 3)

Sec. 25. [Nassau County Administrative Code amended as to the duties of the receiver of taxes.]

Section 5-11.0 of such law, as amended by chapter one hundred forty-two of the laws of nineteen hundred forty-four, the opening paragraph having been last amended by chapter twenty-five of the laws of nineteen hundred forty-eight, is hereby amended to read as follows:

§ 5-11.0 *School district assessment roll and receiver's warrant.*

a. On or before the third Monday of September in each year there shall be delivered to each town receiver of taxes a copy of that portion of the school district assessment roll which contains the properties situated in the town of which he is receiver, together with a warrant for the collection of such taxes which warrant shall be annexed by the clerk of the board of supervisors to such copy at the end thereof. The town receivers of taxes shall attend at the meeting of the board of supervisors at which the taxes are levied pursuant to section 6-22.0 of the code to receive the warrants so annexed. The warrant shall be sealed with the seal of the county and shall be signed by the county executive, or, in his absence or inability to act, by the vice-chairman of the board of supervisors and by the clerk of the board of supervisors. The warrant shall command the receiver of taxes of each town to whom the same shall be directed, to collect from the several persons and on the properties named and described in such school district assessment roll, the sum set opposite the respective names or properties. The warrant also shall command the town receiver of taxes to pay over:

1. To the treasurer or fiscal officer of each school district on the first day of the month until the first day of June next thereafter, all moneys collected for each school district in his portion of the roll.

2. To the county treasurer, after the first day of June in the year following the year in which the warrant was issued, all moneys collected by the receiver of taxes for each school district on such roll.

b. For the purpose of this section all property located in the city school district of the City of Long Beach shall be deemed property situated in the Town of Hempstead.

(L. 1951, Ch. 741, § 4)

Sec. 26. [Nassau County Administrative Code, section 5-13.0b, renumbered.]

Subdivision b of section 5-13.0 of such law, as last amended by chapter eight hundred forty-five of the laws of nineteen hundred thirty-nine, is hereby relettered to be subdivision c.

(L. 1951, Ch. 741, § 5)

Sec. 27. [Nassau County Administrative Code, section 5-13.0c, renumbered.]

Subdivision c of section 5-13.0 of such law, as added by chapter forty-five of the laws of nineteen hundred forty-three, is hereby relettered to be subdivision d.

(L. 1951, Ch. 741, § 6)

Sec. 28. [Nassau County Administrative Code amended to include property in the city in the Town of Hempstead for certain purposes.]

Section 5-13.0 of such law is hereby amended by adding thereto a new subdivision, to be subdivision b, to read as follows:

> b. For the purpose of filing such notice with respect to school district taxes of the city school district of the City of Long Beach, all the property located in such school district shall be deemed property within the Town of Hempstead.

(L. 1951, Ch. 741, § 7)

Sec. 29. [Nassau County Administrative Code, section 6-1.0, amended as to definition of "school district."]

Subdivision two of section 6-1.0 of such law is hereby amended to read as follows:

> 2. The term "school district" means every school district in the county except those school districts coterminus [*sic*] with the limits of an incorporated city or village.

(L. 1951, Ch. 741, § 8)

Sec. 30. [Education Law amended to exempt the city school district.]

Section twenty-five hundred six of the Education Law is hereby amended by adding thereto a new subdivision, to follow subdivision two, to be subdivision three, to read as follows:

> 3. This section shall not apply to the city school district of the City of Long Beach.

(L. 1951, Ch. 741, § 9)

Sec. 31. [Education Law amended to the effect of the Nassau County Administrative Code.]

Section thirty-five hundred one of the Education Law is hereby amended by adding thereto a new subdivision, to follow subdivision two, to be subdivision three, to read as follows:

> 3. The assessment and collection of taxes in the city school district of the City of Long Beach, as provided by the Nassau County Administrative Code, shall not be affected by any provision of this article inconsistent with such Nassau County Administrative Code, it being the legislative intent that the

Nassau County Administrative Code shall constitute the exclusive law in such matters.

(L. 1951, Ch. 741, § 10)

Sec. 32. [Collections to be made pursuant to this act; exceptions.]

The assessment and collection of taxes in the city school district of the City of Long Beach shall be pursuant to the Nassau County Administrative Code as hereby amended, but nothing in this act shall be deemed to apply to or affect the assessment and collection of such taxes for any fiscal year prior to the fiscal year commencing on the first day of July, nineteen hundred fifty-one, it being the legislative intent that the assessment and collection of taxes in the city school district of the City of Long Beach for the fiscal years preceding the first day of July, nineteen hundred fifty-one, shall be pursuant to the act entitled "An act to reestablish Union Free School District Twenty-Eight of the Town of Hempstead, Nassau County, State of New York" as enacted by chapter five hundred thirty-five of the laws of nineteen hundred twenty-four as last amended by chapter six hundred eleven of the laws of nineteen hundred forty-seven and that the assessment and collection of taxes with respect to the fiscal years subsequent to July first, nineteen hundred fifty-one shall be pursuant to the Nassau County Administrative Code as hereby amended.

(L. 1951, Ch. 741, § 11)

[Secs. 33--37. Reserved.]

ARTICLE V. VOLUNTEER FIREMEN'S BENEFITS

Sec. 38. [Caption of section 21 of the Volunteer Firemen's Benefit Law amended.]

The section heading of section twenty-one of the Volunteer Firemen's Benefit Law is hereby amended to read as follows:

> § 21. Assistance to other states, the Dominion of Canada, property ceded to the federal government and to Indian reservations.

(L. 1963, Ch. 322, § 1)

Sec. 39. [Volunteer Firemen's Benefit Law amended as to applicability.]

Section twenty-one of such law is hereby amended by adding thereto a new subdivision, to be subdivision three, to read as follows:

> 3. Whenever a fire company or fire department in this state shall answer a call for assistance to be rendered to any part of an Indian reservation which is not subject to taxation for city, town, village, fire district, fire alarm district or fire protection district purposes, the provisions of this chapter shall apply with respect to the volunteer firemen of such fire company or department, while such assistance is being rendered or while going to or returning from the place from where the assistance is to be or was rendered, to the same extent and in the same manner as if such service had been rendered in or for the area regularly served by such volunteer firemen.

(L. 1963, Ch. 322, § 2)

[Secs. 40--44. Reserved.]

ARTICLE VI. LONG BEACH URBAN RENEWAL AGENCY

Sec. 45. [General Municipal Law amended to establish the Long Beach Urban Renewal Agency.]

The General Municipal Law is hereby amended by inserting in article fifteen-B thereof a new title, to be title fifty-two, to read as follows:

TITLE 52

LONG BEACH URBAN RENEWAL AGENCY

§ 621. *Long Beach Urban Renewal Agency.* A municipal urban renewal agency, to be known as the Long Beach Urban Renewal Agency, is hereby established for the accomplishment of any or all of the purposes specified in articles fifteen and fifteen-A of this chapter, and in accordance with article eighteen of the constitution of the State of New York. It shall constitute a body corporate and politic, be perpetual in duration, and consist of five members; same being the president of the city council of the City of Long Beach, who shall be its chairman; the corporation counsel, director of urban renewal, one member of the city council and one other person both of whom shall be appointed by and serve at the pleasure of the city council. It shall have the powers and duties now and hereafter conferred by article fifteen-A of this chapter upon municipal renewal agencies. It shall otherwise be organized in the manner prescribed by and be subject to the provisions of article fifteen-A of this chapter, and the agency, its members, officers and employees, and its operations and activities shall in all respects be governed by the provisions of such article.

(L. 1965, Ch. 582, § 1; L. 1968, Ch. 317, § 1)

Subpart C RELATED LOCAL LAWS*

***Editor's note:** This subpart contains local laws of the city which are not amendatory of the chapter. The local laws are set out in chronological order, with amendments worked in. The language of the local laws set out in this subpart is as adopted by the city. However, the section numbers have been changed in order to facilitate indexing and referencing. Where words of clarification have been added by the editor, such words appear in brackets.

Charter references: Public hearings on proposed local laws, § 77.

Art. I. Hours of Duty of Uniformed Firemen, §§ 1--9
Art. II. Issuance of "Licensed Plumber" Plates, §§ 10--14
Art. III. Adoption of Fire Prevention Code, §§ 15--20
Art. IV. Conveyance of City Property to Urban Renewal Agency, §§ 21--24
Art. V. Retirement Incentive Program, §§ 25--54
Art. VI. Warranty of Habitability and Covenant of Fitness in Rental Agreements, §§ 55--60
Art. VII. Electronic Stun Guns, §§ 61--69
Art. VIII. Graffiti and Graffiti Materials, §§ 70--76

ARTICLE I. HOURS OF DUTY OF UNIFORMED FIREMEN

Sec. 1. [Question of hours of duty of members of the uniformed, paid fire force to be submitted on referendum.]

There shall be submitted to the electors of the City of Long Beach at the general election to be held on the eighth day of November, nineteen hundred forty-nine the question, "Shall the hours of duty of the members of the uniformed paid fire force of the City of Long Beach be limited to fifty-six hours per week except in the case of conflagration, riots or other emergency?"

(L.L. No. 2, 1949, § 1)

Sec. 2. [Duty periods.]

The members of the uniformed paid fire force shall be under a system whereby each fireman serves continuously for twenty-four hours and is on leave for forty-eight hours. During period of duty all meals shall be eaten at the station, unless at a fire. Periods of duty and leave shall be designated by the fire board of the City of Long Beach. No exchange of duty and leave shall be made between members except with the approval of the captain being first obtained.

(L.L. No. 2, 1949, § 2)

Sec. 3. [Modification of rules.]

If in its opinion the efficiency of the paid fire department will be increased by a modification of the aforesaid tours of leave and duty, the fire board of the City of Long Beach is given the power to institute such modification; provided, however, that no

system shall be instituted which will require any paid fireman to be on duty more than fifty-six hours in any one week.

(L.L. No. 2, 1949, § 3)

Sec. 4. [Extra duty.]

Notwithstanding the above provisions, the paid firemen shall be required to continue on duty, or respond to calls for duty, for such hours as may be necessary, in the event of conflagration, riots or other emergency. In the event that any fireman shall remain on continuous duty for more than twenty-four hours, or shall be required to respond to a call for duty during his tour of leave he shall receive an equivalent amount of such additional tours of duty to be added to his tours of leave within ten (10) days.

(L.L. No. 2, 1949, § 4)

[Secs. 5--9. Reserved.]

ARTICLE II. ISSUANCE OF "LICENSED PLUMBER" PLATES

Sec. 10. ["Licensed plumber" plates may be issued by the examining board of plumbers.]

That the City of Long Beach shall have the right, and is hereby authorized to adopt by ordinance that "licensed plumber" plates shall be issued by the examining board of plumbers.

(L.L. No. 7, 1971, § 1)

State law references: Authority to prescribe by local laws that the examining board of plumbers shall issue "plumbers' plates," General City Law, § 45-6.

[Secs. 11--14. Reserved.]

ARTICLE III. ADOPTION OF FIRE PREVENTION CODE

Sec. 15. [Adoption of fire prevention code authorized.]

The City of Long Beach, New York, shall have the right, and is hereby authorized to adopt by ordinance duly enacted by the city council of said city the Fire Prevention Code, 1976 Edition, recommended by the American Insurance Association, and any deletions, modifications, additions and amendments from, of and to said fire prevention code that said city council shall deem necessary, proper or advisable.

(L.L. No. 8, 1971, § 1; L.L. No. 2, 1979, § 1)

[Secs. 16--20. Reserved.]

ARTICLE IV. CONVEYANCE OF CITY PROPERTY TO URBAN RENEWAL AGENCY

Sec. 21. [Authority.]

The City of Long Beach shall convey at such times as may be required, real property and discontinued streets owned by the City of Long Beach to the Long Beach Urban Renewal Agency.

(L.L. No. 3, 1972, § 1)

State law references: As to conveyance of city property, see General City Law, § 20 et seq.

[Secs. 22--24. Reserved.]

ARTICLE V. RETIREMENT INCENTIVE PROGRAM*

***Editor's note:** L.L. No. 2, 1976, § 1 repealed L.L. No. 4, 1973, §§ 1--24 which had been codified herein as Related Local Laws Art. V, §§ 25--48. Said sections had pertained to the regulation, control and stabilization of rents.

Sec. 25. Authority.

The City of Long Beach, New York, hereby elects to provide all its eligible employees with a retirement incentive program authorized by Chapter 69 of the Laws of 2002.

(L.L. No. 4, 1984; L.L. No. 3, 2002, § 1)

Sec. 26. Commencement date.

The commencement date of the retirement incentive program shall be August 1, 2002.

(L.L. No. 4, 1984; L.L. No. 3, 2002, § 1)

Sec. 27. Open period.

The open period, during which eligible employees may retire and receive the additional retirement benefit, shall be ninety (90) days in length.

(L.L. No. 4, 1984; L.L. No. 3, 2002, § 1)

Sec. 28. Funding.

The actuarial present value of the additional retirement benefits payable pursuant to the provisions of this local law shall be as one lump sum, or in five annual installments. The amount of the annual payment shall be determined by the Actuary of the New York State and Local Employees' Retirement System, and it shall be paid by the City of Long Beach, New York for each employee who receives the retirement benefits payable under this local law.

(L.L. No. 4, 1984; L.L. No. 3, 2002, § 1)

Secs. 29--54. Reserved.

ARTICLE VI. WARRANTY OF HABITABILITY AND COVENANT OF FITNESS IN RENTAL AGREEMENTS

Sec. 55. [Warranty and covenant implied; damages for breach.]

Any lease agreement relating to real property situated in the City of Long Beach shall be deemed to incorporate an implied warranty of habitability and a covenant of fitness for the particular use intended. In addition, an implied covenant that the leased premises conforms to the provisions of the Municipal Code of the City of Long Beach and the laws of the State of New York, shall be deemed incorporated in said lease agreement. Any breach of said warranty or covenants shall constitute sufficient legal grounds for a civil action and for damage by a tenant against a landlord, notwithstanding any grounds for prosecution by the City of Long Beach pursuant to applicable laws.

(L.L. No. 5, 1973, § 1)

Sec. 56. [Nonenforcement of unconscionable clause.]

If a court of competent jurisdiction, as a matter of law, finds the lease or any clause of the lease to have been unconscionable at the time it was made the court may refuse to enforce the lease or it may enforce the remainder of the lease without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(L.L. No. 5, 1973, § 2)

Sec. 57. [Submitting evidence.]

When it is claimed or appears to a court of competent jurisdiction that a lease or any clause thereof may be unconscionable, the parties shall be afforded a reasonable opportunity to present evidence as to its setting, purpose and effect to aid the court in making the determination.

(L.L. No. 5, 1973, § 3)

Secs. 58--60. Reserved.

ARTICLE VII. ELECTRONIC STUN GUNS

Sec. 61. Legislative findings.

It is hereby declared and found that the possession of electronic stun guns is a menace to the public health, peace, safety and welfare of the people of the city and that the possession of such electronic stun guns may result in the commission of many assaults and other crimes upon the people of the city and the law enforcement officers thereof. These devices may be used by criminals to subdue and disable their victims while engaged in the commission of crimes against them. Therefore, the sale and possession of such electronic stun guns should be prohibited in the City of Long Beach.

(L.L. No. 3, 1985, § 1)

Sec. 62. Definition.

As used in this article, "electronic stun gun" shall mean any device designed primarily as a weapon, the purpose of which is to stun, render unconscious or paralyze a person by passing an electronic shock to such person, but shall not include an "electronic dart gun" as such term is defined in section 265.00 of the penal law.

(L.L. No. 3, 1985, § 1)

Sec. 63. Prohibition on sale and possession of electronic stun guns.

a. It shall be unlawful for any person to sell or offer for sale or to have in his or her possession within the jurisdiction of the City of Long Beach any electronic stun gun.

b. Violation of this section shall be a class A misdemeanor.

c. The provisions of this section prohibiting the possession of electronic stun guns shall not apply to police officers as defined in the criminal procedure law.

d. The provisions of this section shall not apply to manufacturers of electronic stun guns or importers and exporters or merchants of electronic stun guns, when such stun guns are scheduled to travel in the course of international, interstate, or intrastate commerce to a point outside the city. Such bulk shipments shall remain in their original shipping package, unopened, except for inspection and possible subdivision for further movement in interstate or intrastate commerce to a point outside the city.

(L.L. No. 3, 1985, § 1)

Sec. 64. Severability.

If a term, part, provision, section, subdivision or paragraph of this article shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions and paragraphs.

(L.L. No. 3, 1985, § 1)

Secs. 65--69. Reserved.

Sec. 64. Severability.

ARTICLE VIII. GRAFFITI AND GRAFFITI MATERIALS

Sec. 70. Legislative findings.

It is hereby declared and found that the use of aerosol spray paint cans, broad-tipped indelible markers and other marking devices for writing of graffiti on public and private property, buildings and other structures is harmful to the general public and violative of the public health, peace, safety and welfare of the people of the City of Long Beach, and past experience of municipalities indicates that frequently the defacement of such structures and real and personal property is committed by persons under the age of eighteen (18) years, and, therefore, that it is deemed advisable to restrict the sale and possession of such materials in the City of Long Beach to persons of more mature interests and intellect.

(L.L. No. 2, 1986, § 1)

Sec. 71. Definitions.

As used in this article, the following terms and expressions shall have the following meanings:

Deface. To mar the face or surface of, disfigure, injure, or spoil the appearance of.

Graffiti. An inscription, figure, mark, or design which is written, scratched, painted, or drawn on a wall, building, monument, statue, or any other surface of real or personal property.

Broad-tipped indelible marker. Any felt-tip marker or similar implement containing a fluid or coloring matter that is not water soluble, and which has a flat or angled writing surface of one-half inch or greater.

(L.L. No. 2, 1986, § 1)

Sec. 72. Graffiti and defacing of property prohibited.

(a) No person shall write, paint or draw any word, inscription, design, figure or mark, or otherwise mar or deface any property, real or personal, public or private, nor any building, church, synagogue, statue, monument, office, passenger or commercial vehicle, bridge, dwelling or structure of any kind including those in the course of construction, or any portion thereof, without the consent and express permission of the owner or proprietor thereof, or in the case of public property, of the person having charge, custody or control thereof.

(b) No person shall carry an aerosol spray paint can or broad-tipped indelible marker into any public building or other public facility with the intent of violating the provisions of the foregoing subdivision (a) of this section.

(L.L. No. 2, 1986, § 1)

Sec. 73. Sale of aerosol spray paint cans and broad-tipped indelible markers.

(a) No person shall sell or offer to sell an aerosol spray paint can or broad-tipped indelible marker to any person under eighteen (18) years of age.

(b) No person who sells or offers for sale aerosol spray cans or broad-tipped indelible markers shall place such cans or markers on display, but shall display only facsimiles of such cans or markers containing no paint, ink or other colored fluid.

(L.L. No. 2, 1986, § 1)

Sec. 74. Severability.

If any term, part, provision, section, subdivision or paragraph of this article shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions and paragraphs.

(L.L. No. 2, 1986, § 1)

Sec. 75. Penalties.

Any person who violates any provisions of this article shall be deemed guilty of an offense and, upon conviction thereof, shall for each violation, be subject to penalties in the following manner:

(1) Upon a first conviction, by a fine not less than one hundred dollars ($100.00) and not more that [than] one thousand dollars ($1,000.00) or by imprisonment for a period not to exceed ten (10) days or by both such fine and imprisonment.

(2) Upon a second or subsequent conviction, by a fine not less than two hundred fifty dollars ($250.00) and not more than three thousand dollars ($3,000.00) or by imprisonment for a period not to exceed fifteen (15) days or both such fine and imprisonment.

(L.L. No. 2, 1986, § 1; L.L. No. I/98, 1998, § 1)

Sec. 76. Enforcement and correction.

(a) *Notice to correct violation:* Whenever the Police Department, Building or other City department shall seek to remove or cause the removal of graffiti, by cleaning, repairing, painting or by taking such other corrective action deemed necessary, it shall serve a notice or an information upon the owner of the property, reciting the facts constituting such violation, and requiring the owner to remove such violation within seventy-two (72) hours after service of such notice or information. Such notice or information shall provide that if the owner fails to remove such violation within the period for compliance so prescribed, the city may remove or cause the removal of such violation.

(b) *Removal of violation by the City:* If the violation is not removed by the owner within the time prescribed by subsection (a) after service of the notice of information, the City may proceed with the removal of the violation or may cause the removal to be done.

(c) *Costs and expenses:* The cost and expense incurred in labor performed and materials used in cleaning, repairing, painting, or such other corrective action deemed necessary, for such property, shall be paid for by the owner of such property. The cost and expense of removing the violation shall be certified to the treasurer and upon receipt of the certification of such cost, the treasurer shall assess and enter as a lien against such property the certified cost thereof, and shall immediately after the entry of such assessment of such lien, send notice thereof and demand of payment thereof from such owner.

(d) The term "owner" as used in this subsection shall be the record holder of title of the building or property and shall include person, firm or corporation directly or indirectly in control of such building or property.

(L.L. No. I/98, 1998, § 1)

Sec. 76. Enforcement and correction.

ARTICLE IX. OVERRIDE OF THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW § 3-C

Sec. 80. Legislative Intent.

It is the intent of this Local Law to override the limit on the amount of real property taxes that may be levied by the City of Long Beach, County of Nassau, pursuant to General Municipal Law § 3-c, and to allow the City of Long Beach to adopt a City budget for the Fiscal Year 2022-2023 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

(L.L. No. II, 5/22/2012, § 1; L.L. No. I, 5/17/2016; L.L. No. II, 2018, § 1; L.L. No. I/19 05-07-2019; L.L. No. II/21 05/18/21; L.L. No. III/22 05/17/22)

Sec. 81. Authority.

This Local Law is adopted pursuant to subdivision 5 of the General Municipal Law § 3-c, which expressly authorizes the City Council to override the tax levy limit by the adoption of a Local Law approved by vote of sixty percent (60%) of the City Council.

(L.L. No. II, 5/22/2012, § 1; L.L. No. I, 5/17/2016)

Sec. 82. Tax Levy Limit Override.

The City Council of the City of Long Beach, County of Nassau, is hereby authorized to adopt a budget for the Fiscal Year 2022-2023 that requires a real property tax levy in excess of the limit specified in General Municipal Law §3-c.

(L.L. No. II, 5/22/2012, § 1; L.L. No. I, 5/17/2016; L.L. No. II, 2018, § 1 ; L.L. No. II/21 05/18/21; L.L. No. III/22 05/17/22)

Sec. 83. Severability.

If any clause, sentence, paragraph, subdivision or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered..

(L.L. No. II, 5/22/2012, § 1; L.L. No. I, 5/17/2016; L.L. No. II, 2018, § 1)

ARTICLE X. OPTING OUT OF LICENSING AND ESTABLISHING ON-SITE CANNABIS CONSUMPTION ESTABLISHMENTS

Sec. 86. Legislative Intent.

It is the intent of this local law to opt the City of Long Beach out of hosting on-site cannabis consumption establishments within its boundaries.

(L.L. No. I/22 12/18/2021)

Sec. 87. Authority.

This local law is adopted pursuant to Cannabis Law § 131, which expressly authorizes cities and villages to opt-out of allowing retail cannabis dispensaries and/or on-site cannabis consumption establishments to locate and operate within their boundaries.

(L.L. No. I/22 12/18/2021)

Sec. 88. Local Cannabis Retail Dispensary and On-Site Consumption Opt-Out.

The City Council of the City of Long Beach, County of Nassau, hereby opts-out of allowing on-site cannabis consumption establishments from locating and operating within the boundaries of the City of Long Beach.

(L.L. No. I/22 12/18/2021)

Sec. 89. Severability.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

(L.L. No. I/22 12/18/2021)

Sec. 90. Effective date

This local law shall take effect immediately upon filing with the Secretary of State. Pursuant to Cannabis Law § 131, this local law is subject to a permissive referendum and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition or a referendum has been conducted approving this local law..

(L.L. No. I/22 12/18/2021)

ARTICLE XI. OPTING OUT OF LICENSING AND ESTABLISHING RETAIL CANNABIS DISPENSARIES

Sec. 94. Legislative Intent.

It is the intent of this local law to opt the City of Long Beach out of hosting retail cannabis dispensaries within its boundaries.

(L.L. No. II/22 12/18/2021)

Sec. 95. Authority.

This local law is adopted pursuant to Cannabis Law § 131, which expressly authorizes cities and villages to opt-out of allowing retail cannabis dispensaries and/or on-site cannabis consumption establishments to locate and operate within their boundaries.

(L.L. No. II/22 12/18/2021)

Sec. 96. Local Cannabis Retail Dispensary and On-Site Consumption Opt-Out.

The City Council of the City of Long Beach, County of Nassau, hereby opts-out of allowing retail cannabis dispensaries from locating and operating within the boundaries of the City of Long Beach.

(L.L. No. II/22 12/18/2021)

Sec. 97. Severability.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

(L.L. No. II/22 12/18/2021)

Sec. 98. Effective date

This local law shall take effect immediately upon filing with the Secretary of State. Pursuant to Cannabis Law § 131, this local law is subject to a permissive referendum and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition or a referendum has been conducted approving this local law.

(L.L. No. II/22 12/18/2021)

CHARTER AND RELATED LAWS COMPARATIVE TABLE

TABLE INSET:

Year	Charter/Local Law	Section	Disposition Subpart/Section	
1922	Ch. 635	1--4	A	1--4
		8--17	A	8--17
		20--26	A	20--26
		44--64	A	44--64
		70--76	A	70--76
		79--81	A	79--81
		81-a--81-d	A	81-a--81-d
		82--87	A	82--97
		100--120	A	100--120
		123	A	123
		125--130	A	125--130
		141--156	A	141--156
		160--164	A	160--164
		170--181	A	170--181
		185--243	A	185--243
		250--255	A	250--255
		275	A	275
1924	Ch. 535		A	Art. 9 (note)
	L.L. No. 1	1	A	77
	L.L. No. 2	1--3	A	11
	L.L. No. 4	1	A	80
	L.L. No. 5	1	A	107
1925	Ch. 668	1	A	2
	L.L. No. 1	1	A	107a
1926	Ch. 448	1	A	2
	L.L. No. 1	1	A	77
	L.L. No. 2	1	A	77(2)
	L.L. No. 3	17	A	17
	L.L. No. 4	1	A	12
	L.L. No. 5	1--3	A	12
	L.L. No. 8	1	A	107a
	L.L. No. 9	1--12	A	80
1927	L.L. No. 1	2	A	99
1928	Ch. 540	1	A	107-a
	L.L. No. 1	1	A	78
1929	L.L. No. 1	1	A	107a
1931	Ch. 345	1	A	198
		2		205-a
				238
		3		213
				228

	L.L. No. 1	2	A	256
	L.L. No. 2	1	A	4
	L.L. No. 3	1	A	257
1932	Ch. 270	1	A	186
Year	Charter/Local Law	Section	Disposition Subpart/Section	
	L.L. No. 1	1	A	114
		2		118
	L.L. No. 2	1	A	12
1933	Ch. 594	1	A	104--114
				114-a--1 14-e
				115
				115-a
				115-b
				116
				116-a
				116-b
				117
				118
				118-a--1 18-k
				119
				119-a--119-l
				120
	L.L. No. 1	1	A	9
				125
		2, 3		11
1934	Ch. 444	1	A	9a
	L.L. No. 1	1	A	107a
1935	Ch. 870	2	A	104
		3		104-A
		4		105a
		5		106
		6		107
				114
				114-b
		7		114-a
		8		114-d
		9		114-f
				114-g
		10--12		115--117
		13--15		118-c--1 18-e
		16		118-h
	L.L. No. 1	1--5	A	121
	L.L. No. 2	1	A	121
1936	Ch. 130	1	A	238-l
	Ch. 639	1	A	205
	Ch. 914	1	B	10

	L.L. No. 1	1	A	106
	L.L. No. 2	1	A	107
	L.L. No. 3	1	A	121
	L.L. No. 4	1	A	98
	L.L. No. 5	1	A	121
1937	L.L. No. 1	1	A	121
Year	Charter/Local Law	Section	Disposition Subpart/Section	
	L.L. No. 2	1	A	103
	L.L. No. 3	1--14	A	122-a
1938	Ch. 215	1--4	B	1--4
	L.L. No. 1	1--14	A	122-a
1939	Ch. 205	1	A	165
	Ch. 612	1	A	118-I
	Ch. 628	1	A	238-I
	L.L. No. 1	10	A	121
	L.L. No. 2	1, 2	A	99-a
	L.L. No. 4	1	A	50
1940	Ch. 92	1	A	78
	L.L. No. 1	1, 2	A	50
	L.L. No. 2	1	A	256A(2)
	L.L. No. 5	1--14	A	122-a
1941	Ch. 684	1	B	1
	L.L. No. 1	1, 2	A	122-a
	L.L. No. 2	1, 2	A	103
	L.L. No. 3	1	A	121
1942	L.L. No. 2	1	A	122-a
1943	Ch. 710	255	A	255
		460		20
		461		22
		462		23
		463		70
		464		74
		465		78
		466		79
		467		81
		468		85
		469		128
	L.L. No. 1	1	A	121
	L.L. No. 2	1	A	121
	L.L. No. 4	1	A	121
	L.L. No. 5	2	A	8
		3		9
		4		9a
		5		11
		6		12
		7		20

		7		70
		8		23
				71
				72
Rpld is the abbreviation for repealed.				
				87
		9		89 (note)
		10		125
Year	Charter/Local Law	Section	Disposition Subpart/Section	
		11, 12		130
		13		174
1944	Ch. 517	1	B	1
	L.L. No. 1	1	A	27
	L.L. No. 3	1, 2	A	9a
	L.L. No. 4	1, 2	A	103
	L.L. No. 5	1	A	122-a
1945	Ch. 339	1 Rpld	A	3(3)
				78
				81
				81-c
				110-a
				150
	Ch. 839	28	A	79
	L.L. No. 1	1	A	107a
	L.L. No. 2	1	A	122-a
1946	L.L. No. 1	1	A	8
				103
		3		11
	L.L. No. 2	1	A	122-a
		2		122-a (note)
	L.L. No. 3	1	A	10
	L.L. No. 4	1 Rpld	A	77(2)
	L.L. No. 5	1	A	10
	L.L. No. 6	2, 3	A	257
	L.L. No. 7	1, 2	A	260
	L.L. No. 8	1--3	A	107
	L.L. No. 9	1	A	107a
	L.L. No. 10	1	A	114
		2		114-a
		3		114-b
		4		114-d
	L.L. No. 11		A	116
		2		117
		3		118
		4		118-b
	L.L. No. 12	1	A	116-b

1947	Ch. 644	1	B	16
	L.L. No. 1	1, 2	A	103
	L.L. No. 2	1		9a
		3		71
		5		130
		7		70
	L.L. No. 3	1	A	12
	L.L. No. 5	1	A	262
1949	Ch. 621	1	A	219-a
	Ch. 622	1	A	229-a
Year	Charter/Local Law	Section	Disposition Subpart/Section	
	Ch. 623	1	A	239
	L.L. No. 1	1	A	8
				11
				22
		2		22
	L.L. No. 2	1--4	C	1--4
	L.L. No. 3	1	A	12
1950	L.L. No. 1	1	A	8
				11
		2		22
	L.L. No. 4	5	A	261
	L.L. No. 5	1	A	122
1951	Ch. 741	1	B	22
		2		23
		3		24
		4		25
		5--11		26--32
	L.L. No. 1	1	A	78
1952	Ch. 434	1	A	187
		2		189
	L.L. No. 2	1	A	103
		2		104
		3		105
		4		105a
		5		106
		6		107
		7		107a
		8		109
1953	Ch. 878	176	A	3
		177	A	118-c
		178	A	118-d
		179	A	118-e
	L.L. No. 1	1	A	109
	L.L. No. 2	1	A	256A(1)
	L.L. No. 3	1	A	64

	L.L. No. 4	1	A	122
1954	Ch. 259	1	A	244--249
				249-a
				249-b
		10		249-c
	Ch. 324	1	A	187
		2		189
		3		213
	Ch. 325	1	A	229
1955	L.L. No. 1	1	A	76
	L.L. No. 2	1	A	76
	L.L. No. 3	1	A	263
Year	Charter/Local Law	Section	Disposition Subpart/Section	
1956	Ch. 320	1	A	238
	Ch. 396	1	A	228-a
	L.L. No. 1	1	A	8
		2		11
		3		45
	L.L. No. 2	10	A	160
1957	Ch. 580	1	A	213
	Ch. 581	1	A	187
	Ch. 748	1	A	238
		2		238-a--238-f
				238-g
				238-h
				238-i--238-k
		3		229-a
				238-l
	Ch. 749	1	A	228
	Ch. 924	1	A	197
	L.L. No. 1	1	A	27
				64
				65
				76
				78
				80
		99		99-a
				121
				122
				122-a
				165
				229-a
				238-l
				244--249
				249-a
				249-c

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				256
				256A(1)
				256A(2)
				257
				258 (note)
				260
				262
	L.L. No. 2	1	A	113
	L.L. No. 4		A	259 (note)
		1		27
				64
				65
				77
				78
Year	Charter/Local Law	Section	Disposition Subpart/Section	
				80
				99
				99-a
				121
				122
				122-a
				165
				229-a
				238-l
				256A(1)
				256A(2)
				257
				260--262
		4	A	256
	L.L. No. 5	1	A	78
		2	A	80
				80-a
				81
		3		81
	L.L. No. 6	1	A	79
1958	Ch. 526	1	A	196
	L.L. No. 1	1	A	270--291
	L.L. No. 2	1	A	13
	L.L. No. 3	1	A	12
1959	L.L. No. 1	1	A	263
	L.L. No. 2	1	A	53
	L.L. No. 4	1	A	241-A
1960	Ch. 532	1	A	229-a
	Ch. 571	1	A	229
	L.L. No. 2	1	A	15
1952	Ch. 311	53	A	229

	L.L. No. 1	1	A	45
		2		160
	L.L. No. 2	1	A	84
1963	Ch. 322	1	B	38
		2		39
	Ch. 323	1	A	228
	Ch. 324	1	A	219-b
	L.L. No. 2	1	A	75
	L.L. No. 3	1	A	273
1964	L.L. No. 1	1	A	28
1965	Ch. 582	1	B	45
	L.L. No. 2	1	A	104
		2		104-A
	L.L. No. 3		A	123
	L.L. No. 4		A	124
	L.L. No. 5	1	A	122
Year	Charter/Local Law	Section	Disposition Subpart/Section	
	L.L. No. 6	1	A	12
1966	L.L. No. 1	1	A	104-b
1967	L.L. No. 1	1	A	12
	L.L. No. 2	1	A	123
	L.L. No. 3	1	A	18
1968	Ch. 317	1	B	45
	L.L. No. 1	1	A	18
1969	L.L. No. 2	1--3	A	123
		4, 5	A	124
1970	L.L. No. 1	1	A	29
				296
	L.L. No. 2	1	A	292--295
				296--302
	L.L. No. 3	1	A	76
	L.L. No. 4	1	A	12
	L.L. No. 5	1	A	261
	L.L. No. 6	1	A	23
	L.L. No. 7	2	A	298
	L.L. No. 8	1	A	61
		3		100
				100(a)
				100(b)
				101
				101(a)
				101(c)
				102
				102(a)
	L.L. No. 9	1	A	98
	L.L. No. 10		A	18 (note)

		1	A	18
1971	L.L. No. 1	1	A	107a
	L.L. No. 2	1--3	A	18
Rnbd is the abbreviation for renumbered.				
	L.L. No. 3	1	A	107-a
	L.L. No. 4	1	A	22
				123
	L.L. No. 5	1	A	256
				256A
				256A(1)
				256A(2)
	L.L. No. 6	1	A	22
	L.L. No. 7	1	C	10
	L.L. No. 8	1	C	15
	L.L. No. 9	1	A	122(b)
	L.L. No. 10	1	A	30
1972	L.L. No. 1	1	A	264(264.1)
				264(264.2)
Year	Charter/Local Law	Section	Disposition Subpart/Section	
				264(264.3)
	L.L. No. 2	1	A	18(5)
	L.L. No. 3	1	C	21
1973	L.L. No. 1	1	A	104-b(1, 2)
	L.L. No. 2	1	A	113
	L.L. No. 3	1	A	123
		2	A	114-b
	L.L. No. 4	1--24	C	25--48
	L.L. No. 5	1--3	C	55--57
	L.L. No. 6	1	A	12
1974	L.L. No. 1	1	A	101-(d)
	L.L. No. 2	1	A	102-a(2)
	L.L. No. 3	1	A	4
		2 Rpld	A	100
				100(a)
				101(a)
			A	100
				100-a
				101-a
		3 Rnbd	A	100(b)
		as	A	100-b
		4 Rpld	A	178
				179
	L.L. No. 4	1	A	102-b
	L.L. No. 5	1	A	103
				104

				104-a
				105
				105-a
				106
				107
				107-a
				114
				114-a
				114-b
				121
				122
	L.L. No. 6		A	70(2)
1975	L.L. No. 1	1	A	71(5)
		2, 3	A	75, 76
		4	A	85
		5	A Rpld	86
	L.L. No. 2	1	A	122(a), (b)
	L.L. No. 3	1	A	265
	L.L. No. 4	1	A	176(v)
	L.L. No. 5	1	A	104-b(3)
Year	Charter/Local Law	Section	Disposition Subpart/Section	
	L.L. No. 6	1	A	131--135
	L.L. No. 7	1	A	107-a(3)
	L.L. No. 8	1	A	20(6)
	L.L. No. 9	1	A	101
	L.L. No. 10	1	A	102-a(3)
1976	L.L. No. 1	1 Rpld	A	300, 301
	L.L. No. 2	1 Rpld	C	25--48
	L.L. No. 3	1	A	103
		2 Rpld	A	105-a, 106
		Added	A	106
		3, 4 Rpld	A	107, 107-a
		Added	A	107, 107-a
		5 Rpld	A	109
		Added	A	109
		6	A	121-a
	L.L. No. 4	1, 2	A	122
	L.L. No. 5	1, 2	A	122(b)(2)--(4)
	L.L. No. 6	1	A	310--324
	L.L. No. 7	1	A	103
		2, 3	A	107, 107-A
		4	A	109
1977	L.L. No. 1	1	A	176(c), (k),
				(l), (t)

	L.L. No. 2	1	A	121-a(1)
	L.L. No. 3	1	A	330
	L.L. No. 4	1	A	103-a
	L.L. No. 5	1	A Rpld	112
		2	A	113
		3--5	A	114--114-b
		6, 7	A	114-d, 114-e
		8	A	115
		9 Rpld	A	115-b
1978	L.L. No. 1	1	A	23
	L.L. No. 2	1	A	11
		2	A	15
		3	A	27
	L.L. No. 3	1	A	21 27
	L.L. No. 4	1	A	335--348
	L.L. No. 5	1, 2	A	103, 104
		3	A	104-a
		4	A	106
	L.L. No. 6	1	A	119-b
	L.L. No. 7	1	A	122(b)2.
	L.L. No. 8	1	A	261(4)
Year	Charter/Local Law	Section	Disposition Subpart/Section	
1979	L.L. No. 1	1	A	114
		2	A	114-a
	L.L. No. 2	1	C	15
	L.L. No. 3	1	A	122(b)3.
1980	L.L. No. 1	1	A	12
	L.L. No. 2	1	A	117
	L.L. No. 3	1	A	20(7)
	L.L. No. 4	1	A	256A(1)
	L.L. No. 5	1		116
		2 Rpld	A	117
		Added		117
	L.L. No. 6	1	A	18(5)
1982	L.L. No. 1	1	A	118
	L.L. No. 2	1	A	89
	L.L. No. 3	1	A	185-a
	L.L. No. 4	1	A	9(2)
	L.L. No. 5	1	A	122(c)
1983	L.L. No. 1	1, 2	A	104-b(1), (2)
	L.L. No. 2	1	A	112-a2
	L.L. No. 3	1	A	15
1984	L.L. No. 1	1	A	107-a
	L.L. No. 2	1, 2	A	103-1, 4
		3	A	107

		4	A	107-a3, 4
		5, 6	A	109, 110
		7, 8	A	113, 114
		9, 10	A	114-a, 114-b
		11	A	114-d
		12, 13	A	115, 116
		14	A	117(a)
		15, 16	A	118-g, 118-h
		17, 18	A	118-j, 118-k
		19	A	119
		20, 21	A	119-i, 119 -j
	L.L. No. 3	1	A	80 2
	L.L. No. 4		C	25--28
1985	L.L. No. 1	1	A	101(c)(d)
	L.L. No. 2	1	A	103-b
	L.L. No. 3	1	C	61--64
1986	L.L. No. 1	1	A	191
	L.L. No. 2	1	C	70--75
1988	L.L. No. 1	1 Rpld	A	330
		Added		330
	L.L. No. 2	1	A	114-c
	L.L. No. 3	1 Rpld	A	330
		Added	A	330
1989	L.L. No. 1	1	A	10
Year	Charter/Local Law	Section	Disposition Subpart/Section	
	L.L. No. 2	1	A	47(o)
	L.L. No. 3	1	A	122(b)2
	L.L. No. 4	1 Added	A	140
1990	L.L. No. 1	1 Added	A	256A(3)
	L.L. No. 2	1 Added	A	103(5)
1991	L.L. No. 1	1 Added	A	56A
	L.L. No. 2	1	A	56
	L.L. No. 3	1 Added	A	256A(4)
1992	L.L. No. 1	1	A	121
	L.L. No. 2	1	A	107-a
	L.L. No. 3	1	A	107-a(title), (3), (4)
	L.L. No. 4	1	A	256
1993	L.L. No. 1	1, 2	A	104-b.1, 2
	L.L. No. 2	1 Added	A	104-c
	L.L. No. 3	1	A	104-c.6(a)
1994	L.L. No. I	1	A	19
	L.L. No. II	1	A	112
1995	L.L. No. I	1	A	26
1997	L.L. I/97	1	A	117
1998	L.L.I/98	1	C	75

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		Added	C	76
	L.L. II/98	1 Added	A	103-c
1999	L.L. I/99	1 Added	A	20.3(a)
2000	L.L. I/00	1	A	107-a
2001	L.L. I	1	A	8, 9, 9-a, 10--12
	L.L. II	1 Added	A	31
2002	L.L. I	1	A	256(A)(1)
	L.L. II	1 Added	A	103-d
	L.L. III	1	C	25--28
	L.L. IV	1	A	23
	L.L. V	1 Added	A	15-a
2003	L.L. I	1	A	28
2004	L.L. I	1	A	8
			A	11
		2 Rpld	A	31
	II-2004	1	A	140
	III-2004	1	A	15-a
2005	L.L. I	1	A	103-d
		Added	A	103-e--103-q
	L.L. II	1 Added	A	264.4
2006	L.L. I	1	A	104-b
2007	L.L. I-07	1 Added	A	104-d.
2008	L.L. I-08	1	A	30
	L.L. II-08	1	A	20.2
	L.L. III-08	1 Added	A	104-e.

PART II CODE OF ORDINANCES

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances of the City of Long Beach, New York," and may be so cited.

Sec. 1-2. Rules of construction.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the council:

City; corporation. Whenever the words "the city," "this city," "the corporation" or "this corporation" are used they shall be construed as if the words "of Long Beach, New York" followed them.

*Computation of time.** Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

***State law references:** Time standard designated, Gen. Construction Law, § 52.

Corporate limits, corporation limits. Whenever the words "corporate limits," "corporation limits" or "city limits" are used they shall mean the legal boundary of the City of Long Beach.

Council. Whenever the term "council" is used, it shall be construed to mean the council of the City of Long Beach.

County. The words "the county" or "this county" shall mean the County of Nassau in the State of New York.

Delegation of authority. Whenever a provision appears requiring the head of a department of the city to do some act or make certain inspections it is to be construed to authorize the head of the department to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Interpretation. In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the

Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper and proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or a servant, agent or employee.

Month. The word "month" shall mean a calendar month.

Name of officer. Whenever the name of an officer is given it shall be construed as though the words "of the City of Long Beach" were added.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Or, and. "Or" may be read "and," and "and" may be read "or" if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property. The term "personal property" includes every species of property except real property, as herein described.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Premises. Whenever the word "premises" is used it shall mean place or places.

Property. The word "property" shall include real and personal property.

Public place. The term "public place" shall mean any park, cemetery, school yard or open space adjacent thereto and all waterways.

Real property. The term "real property" shall include lands, tenements and hereditaments.

Residence. The term "residence" shall be construed to mean the place adopted by a person as his place of habitation and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place

where such person sleeps shall be deemed his residence.

Seal. Whenever the word "seal" is used it shall mean the city or corporate seal.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature or subscription. The "signature" or "subscription" of a person shall include a mark when the person cannot write.

State. The words "the state" shall be construed to mean the State of New York.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the city.

Tenant, occupant. The word "tenant" or "occupant" applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Town. The word "town" shall mean the Town of Hempstead in the County of Nassau, State of New York.

Week. The word "week" shall be construed to mean seven days.

Written, in writing. The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year.

State law references: Definitions in Second Class Cities Law, § 245; meanings of terms generally, Gen. Construction Law, §§ 10--61.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, or as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-4. Effect of repeal of ordinances.

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

State law references: Effect of repeal of statute, Gen. Construction Law, §§ 90--94.

Sec. 1-5. Severability of parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-6. Amendments to Code.

All ordinances passed subsequent to this Code of Ordinances, which amend, repeal or in any way affect this Code of Ordinances, may be numbered in accordance with the numbering system of this Code and printed for inclusion therein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the council.

Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the following language: "That section _____ of the Code of Ordinances of the City of Long Beach, New York, is hereby amended to read as follows: . . . . (Set out new provisions in full) . . . ."

When the council desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the Code, which the governing body desires to incorporate into the Code, a section in substantially the following language shall be made a part of the ordinance:

"Section _____. It is the intention of the council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Long Beach, New York, and the sections of this ordinance may be renumbered to accomplish such intention."

All sections, articles, chapters or provisions of this Code desired to be repealed should be specifically repealed by section number or chapter number, as the case may be.

Sec. 1-7. Altering Code.

It shall be unlawful for any person to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Long Beach to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in section 1-8 hereof.

State law references: General power of a city to manage and control its local affairs, Gen. City Law, § 20(19).

Sec. 1-8. General penalty; continuing violations.

(a) Whenever in this Code or in any ordinance or resolution of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code, ordinance or resolution the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance or resolution shall constitute a violation and shall be punished by a fine not exceeding two hundred fifty dollars ($250.00) or by imprisonment not exceeding fifteen (15) days or both. Each day any violation of any provision of this Code or of any such ordinance or resolution shall continue shall constitute a separate offense.

(b) In addition to the penalty hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any such ordinance or resolution shall be deemed a public nuisance and may be, by the city, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

(c) Whenever by any provision contained in this Code, a fine is provided absolute in amount, with no discretion in the court imposing the same, and such court is satisfied that the convicted person in the commission of the offense acted neither willfully nor wantonly and without malice, such court may impose, in its discretion, a fine of any amount less than that provided.

(Code 1957, § 1-105; Ord. No. 1133/72, § 1, 7-11-72)

Charter references: Penalty for violation of charter, § 251.

State law references: Municipal authority to provide penalties, forfeitures, Gen. City Law, § 20(22); disorderly conduct generally, Penal Law, § 240.20.

Sec. 1-9. Prosecution where different penalties exist for same offense.

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the city, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

Chapter 2 ADMINISTRATION*

***Charter references:** City boundaries established, § 2; corporate name and powers generally, § 3; fiscal year, § 4; continuity of government, § 28; public hearings of proposed local laws, § 77; optional form of government, § 99; publicity fund, § 99-a; fiscal year, § 100; city elections, § 125 et seq.

Cross references: City court, Ch. 8; civil defense, Ch. 9; civil defense organization, § 9-33 et seq.; city collection of garbage and refuse, § 12-18 et seq.; parks and recreation, Ch. 18; Ocean Beach Park, § 18-13 et seq.; personnel code, Ch. 19; police, Ch. 22; city-owned buses, § 24-113 et seq.; water and water distribution, § 25-19 et seq.; sewage and sewage disposal, § 25-85 et seq.

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Div. 1. Generally, §§ 2-157--2-166
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Div. 9. Public Safety Commission, §§ 2-240--2-244
Div. 10. Council For The Arts, §§ 2-250--2-254

ARTICLE I. IN GENERAL

Sec. 2-1. City seal described.

The seal of the city shall be as follows: In the center of a circle there shall be a clock tower with a dome surmounted by a flag. The hands of the clock shall point to half past three and the hours are indicated by Roman numerals. In crescent formation, passing across the center of the flagstaff there shall be five (5) stars. To the left, Neptune is seated, facing the tower and holding a trident in his left hand with the handle resting on the ground. To the right, a mermaid is reclining and facing the tower, her right

arm pointing downward, her left arm extended above her head. In the lower rim of the circle shall appear the words, "City of Long Beach, State of New York"; in the upper rim of the circle shall appear the Latin words "Civitas ad mare".

(Code 1957, § 2-103; Ord. No. 7-A, § 1, 10-7-58)

Sec. 2-2. City flag described; use.

(a) The following design is hereby adopted as the design of the official flag of the city: A flag combining the colors of royal blue, white and gold, divided into two (2) diagonal segments of equal dimensions, one of royal blue and one of white, with the royal blue segment being over the white segment and nearest the flagstaff, together with the standard design of the seal of the city in gold upon a royal blue background, with white lettering, in the center of the flag, being equally in each segment; the whole being bound on all sides, except the side nearest the flagstaff, in gold fringe.

(b) The police department and the fire department are authorized to carry and display the official city flag at all their various functions, reviews, parades and receptions.

(Code 1957, §§ 2-104, 2-104.1)

Sec. 2-3. United States flag to be displayed on city-owned or used buildings.

The flag of the United States shall be displayed on all city-owned buildings, or buildings occupied by any city department or institution of whatever character, on all days of the year, weather permitting.

(Code 1957, § 2-104.2)

Sec. 2-4. Persons upon whom a notice of claim against the city shall be served.

A notice of a claim against the city shall be served upon the corporation counsel.

(Code 1957, § 2-804)

Secs. 2-5--2-14. Reserved.

ARTICLE II. THE CITY COUNCIL*

***Charter references:** Term of members of the council, § 9; removal of elective officers, § 9(a); compensation of members, § 12; city council, § 70 et seq.; composition and powers generally, § 70; meetings, § 71; special meetings, § 72; additional powers of council, § 74.

DIVISION 1. (RESERVED)

Secs. 2-15--2-24. Reserved.

DIVISION 2. MEETINGS

Sec. 2-25. Meetings to be public.

All meetings of the council shall be public.

(Code 1957, § 2-203)

Sec. 2-26. Days and time for regular meetings.

The council shall meet regularly on the first and third Tuesdays of each month at 7:00 p.m. When the time for any regular meeting of the council falls on a holiday or New Year's Eve, the meeting shall be held at the same hour on the first next day which is not a holiday.

(Code 1957, § 2-203; Ord. No. 1400/79, § 1, 8-7-79; Ord. No. 2012/06, § 1, 12-19-06)

Sec. 2-27. Adjourned meetings.

A regular meeting may be adjourned to any hour and day certain prior to the next regular meeting.

(Code 1957, § 2-206)

Sec. 2-28. Place of regular meetings.

All regular meetings of the council shall be held in the city hall.

(Code 1957, § 2-203)

Sec. 2-29. Preparation of calendar.

(a) Upon delivery to the city clerk of resolutions, ordinances, local laws, motions or other matters, the city clerk shall prepare a calendar setting forth the items and matters to be acted upon at the council meeting and shall cause a copy of the

calendar to be delivered to each councilman or left at their homes not later than two (2) business days before the council meeting, except that a special meeting may be called in accordance with the provisions of section 72 of the Charter.

(b) No other business shall be added to the calendar except upon unanimous consent of the members of the council present.

(Code 1957, § 2-207(2); Ord. No. 1268/75, § 1, 1-7-75)

Sec. 2-30. Order of business.

At each meeting of the council, the business of the council shall be taken up for consideration and disposition in the following order:

(a) *Roll call.* Before proceeding with the business of the council, the roll of the members shall be called and the names of those present shall be entered in the minutes.

(b) *Approval of the minutes of the previous meeting.* Unless a reading of the minutes of a council meeting is requested by a member of the council, the minutes may be approved without reading if the city clerk has previously furnished each member with a synopsis thereof.

(c) *Calendar items.*

(d) *Such other items as may be properly before the council.*

(e) At the conclusion of every regular scheduled meeting of the City Council, a "Good and Welfare" session shall be held affording individuals present at the meeting an opportunity to speak and be heard before the Council for a period of three (3) minutes on matters relating to the City.

(Code 1957, § 2-211; Ord. No. 2063/12, § 1, 2-7-12)

Sec. 2-31. Rules of order.

(a) *Presiding officer may debate and vote.* The president, the temporary president or such other member of the council as may be presiding over a meeting of the council may move, second and debate from the chair, subject only to such limitations of debate as are imposed on all members of the council by this division, and shall not be deprived of any of the rights and privileges of a councilman by reason of his acting as the presiding officer.

(b) *Manner of addressing the chair.* Each member of the council desiring to speak shall address the chair and, upon recognition by the presiding officer, shall confine himself to the question under debate, avoiding all personalities and any indecorous language.

(c) *Interruptions.* A member of the council, once recognized, shall not be interrupted when speaking unless it shall be to call him to order, or as otherwise provided in this division. If the member, while speaking, is called to order, he shall cease speaking until the question of order is determined and, if in order, he shall be permitted to proceed.

(d) *Privilege of closing debate.* The councilman moving the adoption of an ordinance

or resolution shall have the privilege of closing the debate.

(e) *Leaving meeting.* No member of the council shall leave a meeting of the council without the permission of the presiding officer.

(f) *Motion to reconsider.* A motion to reconsider any action taken by the council may be made only on the day the action was taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. The motion must be made by one of the prevailing side, but may be seconded by any member, and may be made at any time and have precedence over all other motions or while a member has the floor; the motion shall be debatable. Nothing in this subsection shall be construed to prevent any member of the council from making or remaking the same or any other motion at a subsequent meeting of the council.

(g) *Persons other than members addressing the council.*

(1) Any person desiring to address the council concerning any item on the calendar shall first secure the permission of the presiding officer therefor, and shall address the council prior to the calling of the calendar.

(2) Each person addressing the council shall step up to the front of the rail, shall give his name and address in an audible tone of voice for the record and, unless further time is granted by the council, shall limit his remarks to three (3) minutes. All remarks shall be confined to the item under discussion and shall be addressed to the council as a body and not to any member thereof. No person, other than members of the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer. No question shall be asked a councilman except through the presiding officer.

(h) *Preservation of decorum.*

(1) By council members. While the council is in session, the members shall preserve order and decorum, and a member shall not by conversation or otherwise, delay or interrupt the proceedings or the peace of the council or disturb any member while speaking or refuse to obey the orders of the council or its presiding officer, except as otherwise provided in this division.

(2) By persons other than council members. Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the council or who shall refuse to obey an order of the presiding officer shall be forthwith barred from further appearance before the council, unless permission to continue is granted by a majority vote of the council.

(3) Enforcement of decorum. The commissioner of police, or such member of the police department as he may designate, shall be sergeant-at-arms of the council meetings. He shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the council meeting. Upon instructions of the presiding officer, it shall be the duty of the sergeant-at-arms to place any person who violates the order and decorum of the meeting under arrest, and cause him to be

prosecuted under the provisions of this Code, the complaint for which prosecution shall be signed by the presiding officer.

(4) Persons authorized to be within rail. No person shall be permitted within the rail in the council chamber without the express consent of the council.

(i) *Entry of councilman's remarks on minutes.* A councilman may request, through the presiding officer, the privilege of having an abstract of his statement on any subject under consideration by the council entered in the minutes. If the council consents thereto, the abstract shall be entered in the minutes.

(j) *Synopsis of debate.* The city clerk shall enter in the minutes a synopsis of the discussion on any question coming regularly before the council, unless otherwise directed by the presiding officer.

(Code 1957, §§ 2-203, 2-212--2-215)

Charter references: Rules of procedure, § 73.

Sec. 2-32. Manner of recording unannounced vote.

Unless a member of the council states that he is not voting, his silence shall be recorded as an affirmative vote.

(Code 1957, § 2-203)

Sec. 2-33. Passage of the budget.

(a) The city council shall adopt the budget in accordance with provisions of the Charter of the City of Long Beach. The budget shall be adopted by resolution, and attached to the budget and made a part thereof shall be a personnel roster which shall include the position or title of all employees of the City of Long Beach, together with the department that they are assigned to and the account number to which their salaries shall be charged. In addition thereto, said personnel roster shall contain the current salary of said employees and the approved salary for the following fiscal year, and such other information as may be added by the city manager.

(b) From time to time during the ensuing fiscal year the above-mentioned personnel roster may be amended by resolution.

(Ord. No. 1262/74, § 1, 11-26-74)

Secs. 2-34--2-37. Reserved.

DIVISION 3. LEGISLATION

Sec. 2-38. Preparation; persons entitled to request legislation.

All ordinances and resolutions shall be prepared by the corporation counsel. No ordinance shall be prepared for presentation to the council unless ordered by a member thereof, or requested in writing by the city manager, or prepared by the corporation counsel on his own initiative.

(Code 1957, § 2-216)

Sec. 2-39. Proposed ordinances to identify provisions of this Code to be affected.

Each proposed ordinance shall contain the number of the section of this Code to which it is an amendment, addition, replacement or repeal.

(Code 1957, § 2-219; Ord. No. 679, § 1, 7-2-63; Ord. No. 955/70, § 1, 2-3-70)

Sec. 2-40. Approval of proposed legislation.

Each proposed ordinance or resolution, before presentation to the council, shall be referred to the head of the department under whose jurisdiction the administration thereof would devolve; the department head shall approve it or return the document to the city manager with a written memorandum of the reasons why approval is withheld. The city manager, or his authorized representative, shall next examine and approve the document as to the administration thereof, after which the corporation counsel or his representative shall approve the instrument as to form and legality.

(Code 1957, § 2-216(2))

Sec. 2-41. Reserved.

Editor's note: Section 2 of Ord. No. 1268/75, adopted Jan. 7, 1975, repealed § 2-41, pertaining to submission of legislation, derived from Code 1957, § 2-207(1).

Sec. 2-42. Introduction and second of legislative measures.

Each ordinance, resolution, motion or local law shall be introduced by a member of the council and seconded by another member of the council. In the event that any resolution, motion, ordinance or local law on the calendar is not so introduced and seconded it shall be marked "failed for lack of introduction" or "failed for lack of second." Such action shall have the same force and effect as if the same had been put to a vote and defeated.

(Code 1957, § 2-208)

Sec. 2-43. Calling up legislation for action.

Irrespective of the manner of introduction, ordinances and resolutions shall be called up for action only on motion of a member of the council.

(Code 1957, § 2-216(c))

Sec. 2-44. Time for action on resolutions.

Resolutions, unless laid over by a majority vote of the council, shall be acted upon on the day of introduction or presentation.

(Code 1957, § 2-216(b))

Sec. 2-45. Reserved.

Editor's note: Section 2-45, pertaining to publication of council proceedings, was repealed by Ord. No. 1268/75, § 2, adopted Jan. 7, 1975. The section was derived from: Code 1957, § 2-219; Ord. No. 679, § 1, adopted July 2, 1963; and Ord. No. 955/70, § 1, adopted Feb. 3, 1970.

Secs. 2-46--2-55. Reserved.

Sec. 2-44. Time for action on resolutions.

ARTICLE III. CITY DEPARTMENTS, DIVISIONS AND OFFICERS GENERALLY*

***Charter references:** City officers enumerated, § 8; elective city officers enumerated, § 9; removal of elective officers, § 9-a; qualifications of elective officers, § 10; appointive city officers enumerated, § 11; compensation of officers, § 12; bonds of officers, § 15; oath of office, § 16; code of ethics, § 18; general powers and duties of city officers, § 20 et seq.; city manager, § 20; city treasurer and tax collector, § 21; corporation counsel, § 23; city engineer, § 24; city supervisor, § 26; comptroller, § 27; office of consumer protection, § 29; fire department, § 160 et seq.; department of public works, § 170 et seq.; general powers and duties of other city officers, § 250; department of buildings and property conservation, § 292 et seq.

Cross references: Building department, § 7-25 et seq.; office of the building commissioner created, § 7-26; electrical inspectors designated, § 10-16; fire department, § 11-48 et seq.; personnel code, Ch. 19; inspector of plumbing, § 21-16 et seq.

DIVISION 1. GENERALLY

Sec. 2-56. Individual bond required of certain officers.

The following officers and employees of the city shall each execute and file with the city clerk a separate and individual bond or undertaking with sufficient sureties for the faithful performance of the duties of their respective offices and positions, and for the accounting and payment to the city of all moneys belonging to the city received by them, which bond or undertaking shall be approved as to its form and the sufficiency of the sureties pursuant to the provisions of the Public Officers Law, in the following amounts:

(a) *City manager's department:*

City manager . . . $50,000.00

(b) *Treasurers' (tax) department:*

(1) City treasurer . . . 50,000.00

(2) Principal clerk/tax department . . . 50,000.00

(3) Billing and collection clerk/computer operator . . . 50,000.00

(c) *Comptroller's department:*

(1) City comptroller . . . 50,000.00

(2) Deputy city comptroller/principal accounts clerk . . . 50,000.00

(d) *Water/sewer administration:*

Supervisor/billing and collection . . . 50,000.00

(Code 1957, §§ 2-901, 2-902, 2-904; Ord. No. 482-D, § 1, 5-3-60; Ord. No. 1360/78, § 1,

4-18-78; Ord. No. 1507/83, § 1, 5-17-83; Ord. No. 1519/83, § 1, 11-1-83)

Sec. 2-57. Blanket bond for other officers and employees.

Every officer or employee of the city not required by this division to file a separate bond or undertaking shall be covered in a blanket honesty bond, which blanket bond shall be approved in the manner provided for separate bonds.

(Code 1957, § 2-905; Ord. No. 482-D, § 1, 5-3-60)

Sec. 2-58. Additional filing of the city treasurer's bond.

Pursuant to the provisions of the charter of the city, the bond or undertaking of the city treasurer shall also be filed in the office of the clerk of the county.

(Code 1957, § 2-903)

Sec. 2-59. City to pay bond premiums.

If the surety on any bond or undertaking as required by this division is a fidelity or surety corporation, the reasonable expense of procuring the surety bond shall be a charge against the city.

(Code 1957, § 2-906; Ord. No. 1507/83, § 2, 5-17-83)

Sec. 2-60. Publicity director.

A publicity director may be appointed by the city manager, whose salary shall be fixed by the council.

(Code 1957, § 2-419)

Sec. 2-61. Payroll to be certified; weekly pay period.

The payroll or account for salary or compensation of each and every officer, official and employee, whether elective or appointive, elected or appointed, and irrespective of how such officer, official or employee comes to hold such office, position or employment, shall be prepared by the payroll clerk of the city. In addition to the names of the officers, officials and employees of the city to be paid, such payroll shall bear the certificate of the municipal civil service commission of the City of Long Beach that the persons named in such payroll have been appointed or employed or promoted in pursuance of law and the rules made in pursuance of law, that the position has been duly created by the Charter or ordinance or resolution or local law of the City of Long Beach.

Said payroll shall bear the certification by the payroll clerk as time clerk that the names of the employees and the time of services as shown on the payroll are correct, and that there is on file a time record showing the exact time of all employees named thereon and their employment was properly authorized; a certification by the city comptroller or his designee that the amounts set forth on the payroll are properly chargeable against specific budget or other fund accounts and that there are funds available for the payment of the payroll.

Salaries of all officers, officials and employees shall be paid biweekly or weekly, at the discretion of the city manager.

(Code 1957, § 2-702.9; Ord. No. 920, § 1, 3-4-69; Ord. No. 1369/78, § 1, 6-14-78)

Sec. 2-62. Salary of incumbent not to be reduced.

As to any position, the salary for which is fixed below the salary now received by the incumbent, such salary shall not be reduced hereby during such incumbency but any new appointment to such position shall be in accordance with the salaries fixed by section 19-5.

(Code 1957, § 2-702.10(a))

Secs. 2-63, 2-64. Reserved.

DIVISION 2. CITY CLERK*

***Charter references:** The city clerk, § 22.

Sec. 2-65. Appointment of city clerk and deputy city clerk.

The city clerk and a deputy city clerk shall be appointed by the city manager, pursuant to section 11 of the Charter of the City of Long Beach.

The deputy city clerk shall have all of the duties, obligations, powers, authority and immunities of the city clerk during the absence or disability of the city clerk.

(Ord. No. 1290/75, § 1, 9-2-75)

Sec. 2-66. Records required to be filed with the city clerk.

The following papers, documents and instruments of the city shall be delivered into the custody and care of the city clerk and shall be retained by him subject to the terms of this division, order of the council, or laws of the state, which may be applicable thereto:

(a) All written instruments, papers and documents other than warrants, demands or instruments marked, or otherwise indicated, for transmittal or filing elsewhere, which come before, are presented to, approved or adopted by, or otherwise referred to, or passed upon, by the council at any regular, adjourned or special meeting.

(b) All policies of insurance of every kind and character purchased by, or delivered to, the city for its benefit or for the benefit of the public.

(c) All evidences of, or certificates of, title to real or personal property belonging to the city, including but not limited to, deeds, automobile pink slips and bills of sale.

(d) All guaranty and surety bonds required by any provision of this Code or other ordinance of the city to be filed with the city or any department or official thereof by licensees or holders of permits.

(Code 1957, § 2-1002)

Sec. 2-67. Use of documents by city personnel.

The city clerk shall keep and retain all said papers, documents and instruments delivered to and under his care and custody, subject to use by city officials and employees in the manner following:

(a) For examination in the city clerk's office.

(b) For removal from the city clerk's office in connection with city business for a period not to exceed two (2) weeks and then only with a record of such removal, with the date thereof made by the city clerk and signed by the city official or employee withdrawing the document. The city clerk, upon the return of such documents at the expiration of two (2) weeks, shall permit a withdrawal for an additional two (2) week period in the same manner.

(Code 1957, § 2-1003)

Sec. 2-68. Certified and other copies of documents; fees generally.

Certified or other copies of all papers, documents and instruments on file in the city clerk's office shall be furnished to any person requesting the document upon prepayment to the city clerk of a reasonable charge to be fixed by him, which charge shall cover the cost of reproduction and certification of the requested documents. No charge shall be made to any city official or employee requesting a certified or other copy for city business.

(Code 1957, § 2-1004)

Sec. 2-69. Fee for marriage certificates.

The city clerk shall require a fee of ten dollars ($10.00) for the issuance of a certificate of marriage, payable at the time of issuance, which fee shall be paid into the treasury of the city.

(Code 1957, § 2-404.1; Ord. No. 662, §§ 1, 2, 10-2-62; Ord. No. 902, § 1, 10-9-68; Ord. No. 1454/81, § 1, 7-7-81; Ord. No. 1796/92, § 1, 12-15-92)

Sec. 2-70. Sale of copies of Code of Ordinances; cost.

Copies of the Code of Ordinances of the City of Long Beach, New York, which took effect on February 1, 1974, as thereafter amended, shall be made available to the general public upon payment to the city clerk of the City of Long Beach the sum of one hundred fifty dollars ($150.00) for each volume thereof; and any supplement thereafter issued shall be made available in a like manner upon the payment to the city clerk of the City of Long Beach of the sum of twenty-five dollars ($25.00).

(Ord. No. 12211/74, § 1, 3-5-74; Ord. No. 1473/82, § 1, 5-18-82; Ord. No. 1738/90, § 1, 12-18-90)

Sec. 2-71. Insurance policies and bonds; duty of city clerk to notify city manager of expiration.

Any and all policies of insurance or surety or guaranty bond purchased by the city, such as city automobile fleet insurance, fire or public liability insurance, shall expire on June 30, or such other date which shall be the last day of the city's fiscal year. It shall be the duty of the city clerk, not less than sixty (60) days prior to the expiration of such policy of insurance or surety or guaranty bond purchased by the city, to notify the city manager, in writing, giving the name of the insured, the insurance carrier, surety or guarantor and coverage, and the date of expiration of such policy or policies or of the expiration of any contract, lease or other agreement between the city and any other person, firm or corporation.

(Code 1957, § 2-1005; Ord. No. 1785/92, § 1, 8-4-92)

Secs. 2-72--2-74. Reserved.

DIVISION 3. POLICE SURGEON AND CITY PHYSICIAN*

***Charter references:** City physician and health officer, § 25.

Sec. 2-75. Office created; appointment.

There is hereby created the office of police surgeon and city physician, who shall be appointed by the city manager pursuant to the rules of civil service and shall serve at the pleasure of the city manager.

(Code 1957, § 2-410.21; Ord. No. 3047/21, 4/6/2021)

Sec. 2-76. Compensation.

The police surgeon and city physician shall receive an annual salary to be fixed by the council.

(Code 1957, § 2-410.21; Ord. No. 692, § 2, 12-3-63)

Sec. 2-77. Duties.

The police surgeon and city physician shall have the following duties:

(a) *As police surgeon.* The police surgeon shall be the chief surgeon of the police department. The police surgeon shall direct and conduct physical examinations of candidates for appointment, of probationary sworn police officers immediately preceding the expiration of their probationary period, of applicants for reinstatement to the uniformed force, and shall conduct

regularly scheduled physical examinations of convalescents and partially disabled sworn police officers assigned to light duty or otherwise unavailable for full-duty. The police surgeon may render surgical and medical care and aid to any member of the department whenever required. Upon request from the City Manager or the Commissioner of Police, the police surgeon shall certify to the City Manager as to the physical condition and fitness of the members of the police force, and shall generally do and perform such other services in connection with this office as may be required by the City Manager or the Commissioner of Police.. The police surgeon shall conduct examinations in connection with all applications for retirement based upon alleged permanent physical or mental disability, serve as a police department witness in court as required in connection with the discharge of the duties of this office, and interview and examine all cases referred by the City Manager.. The police surgeon shall be responsible for the maintenance of a sickness and disability record of each sworn officer of the police department, and shall examine into and make a written report on all cases referred by the city manager or the Commissioner of Police involving disciplinary action against any member of the police force. The police surgeon shall be available for duty upon the City Manager's or the Commissioner of Police's reasonable request.

(b) *As city physician.* The city physician shall direct and conduct physical examinations of all city employees, other than sworn officers of the police department, when so directed by the city manager. The city physician shall interview and examine all cases referred by the city manager or the corporation counsel. The city physician shall generally do and perform such other services in connection with his office as may be required by the city manager.

(Code 1957, § 2-410.21; Ord. No. 692, § 2, 12-3-63; Ord. No. 3047/21, 4/6/2021)

Secs. 2-78--2-87. Reserved.

Sec. 2-77. Duties.

ARTICLE IV. PURCHASING

Sec. 2-88. Designation of purchasing agent.

The city manager may designate a city employee to act as purchasing agent for the city.

(Code 1957, § 2-418)

Sec. 2-89. Limitation on expenditure of funds for current fiscal year.

No contract, agreement, obligation, order or expenditure involving the expenditure of money within the current fiscal year shall be entered into, nor shall any order for the expenditure of money be made by any officer of the city except in accordance with the provisions of this article, and unless the money required for the contract, agreement, obligation, order or expenditure has been appropriated in the budget for the then fiscal year for the purpose, or the money required therefor has been duly provided by resolution of the council in accordance with the provisions of the charter of the city.

(Code 1957, § 3-101)

Sec. 2-90. Preparation of purchase order or requisition.

When materials, supplies, equipment or services are to be purchased, the purchasing agent shall enter the items to be purchased upon a purchase order or requisition specifying kind and character of the materials, supplies, equipment or services required, the cost thereof and the use intended to be made thereof.

(Code 1957, § 2-418.1)

Sec. 2-91. Availability of funds.

No purchase order or requisition shall be acted upon by the purchasing agent until the availability of funds therefor has been certified by the city comptroller and approved by the city manager.

(Code 1957, § 2-418.3; Ord. No. 1360/78, § 2, 4-18-78)

Sec. 2-92. When approval of the council is required.

No contract for public work involving an expenditure of more than thirty-five thousand dollars ($35,000.00) and no purchase contract involving an expenditure of more than twenty thousand dollars ($20,000.00) shall be awarded unless it shall first have received the approval of the city council by resolution. In determining whether the contract or purchase order exceeds the foregoing respective amounts, a record shall be made of the true nature of the supplies, materials, equipment and services of the parties to the contract or order, and the contract or purchase order shall not be so divided or otherwise treated as to make a number of contracts or orders not exceeding the foregoing respective amounts each, which, according to the principles of ordinary business practice, should be done or made under a contract or order exceeding said

respective amounts.

(Code 1957, §§ 2-418.1, 2-418.3; Ord. No. 1384/78, § 1, 10-4-78; Ord. No. 1513/83, § 1, 9-6-83; Ord. No. 1770/92, § 1, 1-7-92; Ord. No. 2058/11, § 1, 2/1/11)

Sec. 2-93. The term "purchase" to include the acquisition of services.

The term "purchase" as used in this article shall include the hiring of any and all types of services the city may require.

(Code 1957, § 2-418.1)

Sec. 2-94. Competitive proposals.

Whenever practicable before making any purchase, there shall be given opportunity for competition. All proposals shall be on precise specifications, and the order or purchase shall be awarded after giving due consideration to the lowest bidder meeting the specification.

(Code 1957, § 2-418.2)

Sec. 2-95. Place of filing bids.

Whenever bids are solicited by the city for the purchase of materials or supplies or for repairs, alterations, work, improvements or services, such bids shall be addressed to the city manager and shall be filed with him unless otherwise provided in the invitation, notice or advertisement for bids.

(Code 1957, § 3-102)

Sec. 2-96. Opening and tabulating bids.

The city manager, or such representative as he may designate, shall, in each case open bids and make a tabulation thereof immediately after the time for the receipt of bids has expired, and the bids and tabulations thereof shall be presented, together with the recommendation of the city manager, to the council, or other body or official authorized to act in connection therewith.

(Code 1957, § 3-103)

Sec. 2-97. Authority of city manager to purchase without bids, etc.

Nothing in this article shall be construed as in any manner affecting the existing authority of the city manager to make purchases without bids where such bids are not required by law, and he is hereby authorized to make such purchases and to sign purchase orders and, contracts therefor subject to approval by the council if such approval is required by law.

(Code 1957, § 3-104)

Sec. 2-98. Authority to award contract on basis of best value

Purchase contracts (including contracts for service work, but excluding any

purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the Labor Law) may be awarded on the basis of best value, as authorized in Section 103 of the General Municipal Law and as defined in Section 163 of the State Finance Law. “Best value” means the basis for awarding contracts for services to the bidder which optimizes quality, cost and efficiency, among responsive and responsible bidder. Such basis shall reflect, wherever possible, objective and quantifiable analysis.

(Ord. No. 2084/13, § 1, 9/3/2013)

Secs. 2-99--2-104. Reserved.

ARTICLE V. FISCAL CONTROLS*

***Charter references:** City treasurer and tax collector, § 21; city comptroller, § 27; monthly financial report of the police department, § 60; application of funds paid into the police department, § 61; sinking funds authorized, § 78; special assessment procedure, § 80 et seq.; designation of depositories, § 92; assessment, levy and collection of taxes, § 100 et seq.; fiscal year, § 100; budget, § 100-a et seq.; tax assessments, § 103 et seq.; utility tax, § 122-a; nonproperty taxes, § 123 et seq.

Related acts references--Cancellation of assessments for beach property acquisition, § 1 et seq.; assessment and collection of taxes in the city school district, § 22 et seq.

DIVISION 1. GENERALLY

Sec. 2-105. When funds may be withdrawn from city depositories.

(a) No moneys shall be drawn from city depositories unless by checks or written authorization for transfers subscribed by two (2) of the following officers: City comptroller or deputy city comptroller and the city manager or the city treasurer. No money shall be paid by any city depository except upon checks or written authorization for transfers subscribed as in this section provided.

(b) The foregoing subsection (a) shall not apply to payroll checks, which may be signed by any one of the officers named in subsection (a) of this section.

(Code 1957, § 2-403(b); Ord. No. 1296/75, § 1, 10-21-75; Ord. No. 1360/78, § 3, 4-18-78; Ord. No. 1482/82, § 1, 8-17-82)

Sec. 2-106. Petty cash fund.

(a) There is hereby established a petty cash fund which shall not be in excess of the sum of one thousand dollars ($1,000.00) and which fund shall be maintained by the city treasurer in the office of the city cashier, and may be used for the following purposes:

(1) Making change.

(2) Paying expenses, parcel post and freight charges.

(3) Paying travel expenses.

(4) Paying all duly authorized purchases of materials and supplies which require payment upon delivery; such payments, however, shall be made only after an official order has been issued and a certification has been made that the material and supplies can be purchased only for cash on delivery.

(b) Payment from the petty cash fund shall be made by the city cashier only upon his receipt of petty cash slips presented in duplicate, bearing the signature of the city

manager, the city treasurer and the city comptroller.

(Code 1957, § 2-403.1; Ord. No. 674, § 1, 5-7-63; Ord. No. 1360/78, § 4, 4-18-78)

Sec. 2-107. Change banks.

Nothing in this division shall be construed to prevent the city treasurer from providing a "change bank" for bus operation, skating rinks and city court, nor limiting the amount thereof.

(Code 1957, § 2-403.1; Ord. No. 674, § 1, 5-7-63)

Sec. 2-108. Designation and powers of deputy city treasurer.

The city treasurer may designate a deputy city treasurer who shall act and have all of the duties, obligations, powers, authority and immunities of the city treasurer only during the absence or disability of the city treasurer.

(Ord. No. 1297/75, § 1, 10-21-75)

Secs. 2-109--2-112. Reserved.

DIVISION 2. PAYMENT OF CLAIMS*

***Charter references:** Auditing bills, § 93; when bills against the city shall be paid, § 253; notice prerequisite to action against city for failure to maintain safe public way, § 256A(1); prerequisites to actions against the city for damages from snow and ice accumulations, § 256A(2); notice of tort claims against the city, § 257.

Sec. 2-113. Annual service charge on retained percentages of contractors.

Pursuant to General Municipal Law, Article 5A, Section 106-a, the city comptroller of the City of Long Beach is hereby authorized to impose upon each contractor who has heretofore been awarded or shall hereafter enter into a contract with the City of Long Beach, an annual service charge of ten (10) per cent of the interest on retained percentages, payable quarterly, for receiving, handling and disbursing funds and coupons, pursuant to the General Municipal Law, Article 5A, Section 106.

(Code 1957, § 2-412.6; Ord. No. 1158/73, § 1, 1-9-73; Ord. No. 1360/78, § 6, 4-18-78; Ord. No. 1482/82, § 3, 8-17-82)

Editor's note: Section 2 of Ord. No. 1482/82, adopted Aug. 17, 1982, repealed § 2-113, "When city comptroller may execute warrants," and § 3 of said ordinance renumbered § 2-113.1 as § 2-113. The repealed provisions derived from Code 1957, § 2-412.5 and Ord. No. 1360/78, § 5, adopted April 18, 1978.

Sec. 2-114. Contents and form of bill or account against the city.

No bill or account against the city shall be audited or paid unless the bill or

account shall be made out in items and properly dated, with an affidavit attached thereto by the person, or officer of the corporation presenting or rendering the bill or account, that the items of the bill or account are correct; that the services and disbursements charged therein have in fact been rendered or performed and that no part thereof has been paid or satisfied.

(Code 1957, § 2-412.1)

Sec. 2-115. Certification of bill or account by officer or department head.

The affidavit or voucher attached to a bill or account against the city shall bear the certification of the officer or head of the department of the city for whose department the materials, supplies, equipment or services were furnished, that he has inspected the material, work or services and that the quantity and quality thereof, and has verified the quality and quantity, and that the material, work or services are in strict accordance with the order of requisition, and the resolution of the council if there is one.

(Code 1957, § 2-412.1)

Sec. 2-116. Approval of account or bill by the city comptroller and the city manager.

(a) Within ten (10) days from receipt of any bill or claim against the city, it shall be audited by the city comptroller, who shall examine the correctness thereof and of all the items thereon, as to the amount, quantity, valuation and extent of the materials or services furnished and of all labor and services performed for the city or its departments.

(b) When the city comptroller shall have certified on the bill or account filed by the claimant that he has duly audited it and that the claim is a proper one, that it was duly authorized and that the money for the payment for the bill or account is available from proper funds, the bill or account shall be submitted to the city manager who within ten (10) days shall approve or reject the bill or account.

(c) In the event that the bill or account shall have been found to be incorrect, improper or otherwise objected to by the city comptroller or the city manager, the claim or voucher shall, within the ten (10) days, be returned to the claimant for correction.

(d) All vouchers, claims or bills which have been audited as required by this section and approved by the city manager, shall be processed and paid as provided in this division.

(Code 1957, § 2-412.2; Ord. No. 1360/78, § 7, 4-18-78)

Sec. 2-117. Interest claims to be approved by city manager and paid by treasurer.

Wherever a claim or voucher shall be presented for interest on bonds, maturities, notes, mandatory payments or contractual obligations requiring payment thereof on a specified date, such claims or vouchers shall be audited and approved by the city manager and paid by the treasurer in good and sufficient time to meet such obligation.

(Code 1957, § 2-412.3)

Secs. 2-118--2-126. Reserved.

Sec. 2-117. Interest claims to be approved by city manager and paid by treasurer.

ARTICLE VI. CITY-OWNED PROPERTY

DIVISION 1. GENERALLY

Sec. 2-127. City tax assessor to maintain list of city-owned real property; contents.

The city tax assessor shall prepare and maintain currently, a complete and exact list of each and every parcel of land owned by the city.

(Code 1957, § 3-301)

Secs. 2-128--2-132. Reserved.

DIVISION 2. SALE OF SURPLUS PERSONAL PROPERTY

Sec. 2-133. Surplus property to be sold; disposition of funds.

Any personal property owned by the city and no longer required for the use of the city shall be sold by the city manager in the manner provided in this division, and all moneys received as a result of the sale shall be paid into the city treasury.

(Code 1957, § 3-501)

Sec. 2-134. Manner of sale.

In selling personal property under the provisions of this division, the city manager shall issue requests for bids, and the sale shall be made to the highest bidder; however, if the city manager deems it to be for the best interest of the city, he may, in his discretion, make the sale by public auction.

(Code 1957, § 3-502)

Sec. 2-135. Authority of city manager to sign bills of sale.

The city manager is authorized to sign for and on behalf of the city all bills of sale and any other papers or documents required to evidence sales of personal property under the provisions of this division.

(Code 1957, § 3-504)

Sec. 2-136. Payment.

All sales of personal property under the provisions of this division shall be for cash or for certified check or money order payable to the city.

(Code 1957, § 3-503)

Secs. 2-137--2-140. Reserved.

DIVISION 3. SALE OR LEASE OF REAL PROPERTY

Sec. 2-141. City tax assessor to establish lease or sale list price.

The city tax assessor, with the approval of the council, shall fix a minimum list price on each and every parcel of land for purposes of sale or lease, or both, revising the list price from time to time in accordance with current market conditions.

(Code 1957, § 3-302)

Sec. 2-142. Reserved.

Editor's note: Section 2-142, relative to sale or lease of city real estate by auction and § 2-143, relative to the manner of conducting sale, were repealed by §§ 1 and 2 of Ord. No. 1471/82, adopted May 4, 1982. In addition, § 2 of said ordinance enacted a new § 2-143 as hereinbelow set out. The repealed provisions derived from Code 1957, §§ 3-303 and 3-304.1.

Sec. 2-143. Manner of conducting public sale or lease.

If the city council shall decide to sell or lease any city-owned real property at public auction, such auction may be conducted by any officer, official or employee of the city who may be designated by the council for that purpose, or by an auctioneer so designated; and if the council shall fail to designate any such person to conduct such auction, such person shall be designated by the city manager.

(Ord. No. 1471/82, § 2, 5-4-82)

Note: See the editor's note following § 2-142.

Sec. 2-144. Manner of payment on sale or lease.

The consideration for the sale or lease of city-owned real estate may be payable by all cash, or may be payable in installments, or may be payable partly by cash and partly in installments, as the city council may determine or approve. The term cash shall be construed to include good certified check or bank cashier's check payable to the city.

(Ord. No. 1466/82, § 1, 2-16-82)

Editor's note: Ord. No. 1466/82, § 1, adopted Feb. 16, 1982, repealed § 2-144, relative to manner of payment of sales or lease price and, in lieu thereof, enacted a new § 2-144, relative to similar subject matter. The former section derived from Code 1957, § 3-304.2.

Sec. 2-145. Authority to reject bids or withdraw property from sale.

The council may, in its discretion, in any case, reject any or all bids or withdraw the property from sale, exchange or lease, as the case may be, should it deem such action to be in the public interest.

(Code 1957, § 3-305)

Sec. 2-146. Commissions of real estate brokers.

No commissions shall be paid to real estate brokers, or any other persons authorized by law to act as brokers, who shall bring about the sale, exchange or lease of any real estate owned by the city, or any interest therein, unless such broker or such other authorized person shall have retained or engaged for that purpose by a written instrument signed by the city manager and approved by the city council specifying the particular real estate and the commission to be paid for bringing about the desired transaction.

(Code 1957, § 3-306; Ord. No. 1462/81, § 1, 12-15-81)

Sec. 2-147. Community development properties.

Anything contained in any other section of this division to the contrary notwithstanding, the provisions of sections 2-141 to 2-146, inclusive, shall not apply to any city-owned real estate acquired or held for or in connection with any federally funded program of the city's community development department, but all such real estate shall be sold, leased or otherwise disposed of or dealt with in accordance with policies and procedures of such program, as approved by resolution of the city council after due public notice and hearing.

(Ord. No. 1409/79, § 1, 12-18-79)

Secs. 2-148--2-156. Reserved.

ARTICLE VII. BOARDS AND COMMISSIONS GENERALLY*

***Charter references:** Board of ethics, § 18; civil service commission, § 95; authority of the council to establish various boards, § 96.

Related acts references--Long Beach Housing Authority, § 16; Long Beach Urban Renewal Agency, § 45.

Cross references: Municipal civil defense council, § 9-20 et seq.; board of electrical examiners, § 10-55 et seq.; board of fire commissioners, § 11-70 et seq.; traffic commission, § 15-84 et seq.; parking commission, § 15-92 et seq.; recreation commission, § 18-57 et seq.; park commission, § 18-74 et seq.; duties of the civil service commission generally, § 19-1; zoning board of appeals, § 20-11 et seq.; planning advisory board, § 20-29 et seq.; examining board of plumbers, § 21-34 et seq.

DIVISION 1. GENERALLY

Sec. 2-157. Reserved.

Editor's note: Ord. No. 1308/76, § 1, adopted Jan. 27, 1976 repealed § 2-157 which had pertained to the health and safety board. Said section had been derived from Code 1957, § 2-512 and Ord. No. 1196/73, § 1, 12-27-73.

Secs. 2-158--2-166. Reserved.

DIVISION 2. COMMISSION ON HUMAN RIGHTS*

***State law references:** Commission on human rights, General Municipal Law, § 239-o et seq.

Sec. 2-167. Definitions.

As used in this division, the following terms shall have the meanings ascribed to them:

Discrimination shall mean any difference in treatment based on race, creed, color, national origin or ancestry, and shall include segregation, except that it shall not be discrimination for any religious or denominational institution to devote its facilities, exclusively or primarily, to or for members of its own religion or denomination or to give preference to such members or to make such selection as is calculated by such institution to promote the religious principles for which it is established or maintained.

Religious or denominational institution shall mean an institution which is operated for religious purposes or is operated, supervised or controlled by religious or

denominational organizations.

(Code 1957, § 2-510.2; Ord. No. 985/70, § 1, 8-4-70)

Sec. 2-168. Legislative findings.

In a city such as Long Beach, with its population consisting of people of every race, color, creed, national origin and ancestry, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of difference of race, color, creed, national origin or ancestry. The council hereby finds and declares that prejudice, intolerance, bigotry and discrimination threaten the rights and proper privileges of its inhabitants and menace the institutions of a free democratic state.

(Code 1957, § 2-510; Ord. No. 985/70, § 1, 8-4-70)

Sec. 2-169. Purpose for creation of commission.

A statutory commission is created by this division through which the city officially may encourage mutual understanding and respect among all groups in the city, eliminate prejudice, intolerance, bigotry and discrimination and give effect to the guarantee of equal rights for all assured by the Constitution and the laws of the state and of the United States of America.

(Code 1951, § 2-510; Ord. No. 985/70, § 1, 8-4-70)

Sec. 2-170. Commission created; authority for creation.

A commission on human rights is hereby established by the city in accordance with article 12-D of the General Municipal Law, as enacted by chapter three hundred seventy-six of the laws of nineteen hundred sixty-three.

(Code 1957, § 2-510.1(a); Ord. No. 684, § 1, 9-10-63; Ord. No. 857, § 1, 9-12-67; Ord. No. 985/70, § 1, 8-4-70)

Sec. 2-171. Composition; designation of chairman.

The commission on human rights shall consist of not more than fifteen (15) members. The city manager shall designate one (1) of the members to be chairman, and he shall serve as chairman at the pleasure of the city manager.

(Code 1957, § 2-510.1(b); Ord. No. 684, § 1, 9-10-63; Ord. No. 857, § 1, 9-12-67; Ord. No. 985/70, § 1, 8-4-70)

Sec. 2-172. Appointment and terms of members; filling vacancies.

(a) The city manager shall appoint the members of the commission on human rights. In making appointments to the commission on human rights, the city manager shall take into consideration the various religious, racial, national and political groups in the community.

(b) Of the members of the commission on human rights first appointed, five (5) shall be appointed for terms of office of one (1) year, five (5) shall be appointed for

terms of office of two (2) years and five (5) for terms of office of three (3) years each. Thereafter, all appointments, except to fill vacancies, shall be for terms of office of three (3) years each. Vacancies occurring otherwise than by expiration of terms of office shall be filled for the unexpired terms of the offices so filled.

(Code 1957, § 2-510.1(c), (e); Ord. No. 684, § 1, 9-10-63; Ord. No. 857, § 1, 9-12-67; Ord. No. 985/70, § 1, 8-4-70)

Sec. 2-173. Compensation of members.

The members of the commission on human rights shall serve without salary but may be reimbursed for their actual expenses necessarily incurred in the discharge of their official duties.

(Code 1957, § 2-510.1(d); Ord. No. 684, § 1, 9-10-63; Ord. No. 857, § 1, 9-12-67; Ord. No. 985/70, § 1, 8-4-70)

Sec. 2-174. Personnel.

The city manager shall have the power and authority, subject to applicable civil service requirements, to employ an executive director, a secretary and such attorneys, experts and other employees as may be necessary for the proper operation of the commission on human rights, within the amount made available by the council.

(Code 1957, § 2-510.3; Ord. No. 684, § 1, 9-10-63; Ord. No. 857, § 1, 9-12-67; Ord. No. 985/70, § 1, 8-4-70)

Sec. 2-175. General duties of the commission.

It shall be the duty of the commission on human rights, as provided by Article 12-D of the General Municipal Law, to:

(a) Foster mutual respect and understanding among all racial, religious and nationality groups in the community.

(b) Make such studies in any field of human relationship in the community as, in its judgment, will aid in effectuating its general purposes.

(c) Enquire into incidents of tension and conflict among or between various racial, religious and nationality groups, and take such action as may be designed to alleviate such tension and conflict.

(d) Conduct and recommend such educational programs as, in its judgment, will increase goodwill among inhabitants of the community and open new opportunities into all phases of community life for all inhabitants.

(Code 1957, § 2-510.4; Ord. No. 684, § 1, 9-10-63; Ord. No. 857, § 1, 9-12-67; Ord. No. 985/70, § 1, 8-4-70)

State law references: For similar provisions, see General Municipal Law, § 239-q.

Sec. 2-176. General obligations of the commission.

The commission on human rights shall discharge the following obligations as

provided by Article 12-D of the General Municipal Law:

(a) Receive complaints of alleged discrimination because of race, creed, color or national origin; to seek the active assistance of the state commission for human rights in the solution of complaints which fall within the jurisdiction of the state commission; and to prepare its own plans in the case of other complaints with a view to reducing and eliminating such alleged discrimination through the process of conference, conciliation and persuasion.

(b) Hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath and in connection therewith, to require the production of any evidence relating to any matter under investigation or in question before the commission on human rights. All such hearings shall be held in executive session unless prior written approval for a public hearing is obtained from the city manager. The commission on human rights, after the completion of any public hearing, shall make a report in writing to the city manager setting forth the facts found by it and its recommendations. At any hearing before the commission on human rights or any committee thereof, a witness shall have the right to be advised by counsel present during the hearing.

The powers enumerated in this subsection may be exercised by any group of three (3) or more members of the commission on human rights acting as a committee thereof, when so authorized in writing by the commission on human rights. The commission on human rights shall designate one (1) member of the committee to act as hearing chairman, and such hearing chairman is designated, pursuant to Section 2213 of the County Government Law of Nassau County, as an officer who may administer oaths and affirmations, compel witnesses to attend and to compel the production of books and papers.

(c) Hold conferences and other public meetings in the interest of, and the constructive resolution of, racial, religious and nationality group tensions and the prejudice and discrimination occasioned thereby.

(d) Issue such publications and reports of investigations as, in its judgment, will tend to effectuate the purposes of Article 12-D of the General Municipal Law.

(e) Enlist the cooperation and participation of the various racial, religious and nationality groups, community organizations, industrial and labor organizations, media of mass communication, fraternal and benevolent associations, and other groups in an educational campaign devoted to fostering among the diverse groups of the community mutual esteem, justice and equity.

(f) Encourage and stimulate agencies under the jurisdiction of the city which created the commission on human rights to take such action as will fulfill the purposes of Article 12-D of the General Municipal Law.

(g) Submit an annual report to the city council.

(Code 1957, § 2-510.5; Ord. No. 684, § 1, 9-10-63; Ord. No. 857, § 1, 9-12-67; Ord. No. 985/70, § 1, 8-4-70)

Sec. 2-176. General obligations of the commission.

Sec. 2-177. Effect of amendments to applicable state law.

In the event the provisions of the General Municipal Law, Article 12-D, are amended, such amendments shall be effective with respect to the commission on human rights created in this division.

(Code 1957, § 2-510.7; Ord. No. 684, § 1, 9-10-63; Ord. No. 857, § 1, 9-12-67; Ord. No. 985/70, § 1, 8-4-70)

Secs. 2-178--2-182. Reserved.

DIVISION 3. NARCOTICS GUIDANCE COUNCIL*

***State law references:** Narcotics guidance council, General Municipal Law, § 239-u.

Sec. 2-183. Created; composition; appointment and qualifications of members.

There shall be a narcotics guidance council which shall consist of seven (7) members, appointed by the city council, and which shall include at least one (1) clergyman, one (1) attorney, and one (1) physician, and may include persons under twenty-one (21) years of age. The members shall serve at the pleasure of the city council.

(Code 1957, § 2-511.1; Ord. No. 980/70, § 1, 6-25-70)

Sec. 2-184. Functions.

The narcotics guidance council shall develop a program of community participation regarding the control of the use of narcotics and dangerous drugs in the city. It shall direct itself toward accomplishing the following:

(a) Making immediately available to the community basic knowledge acquired in the field of drug use, especially by youth.

(b) Creating a climate in which persons seeking assistance in coping with narcotics and dangerous drug problems can meet without embarrassment, with responsible individuals or agencies in a position to render assistance.

(c) Authorizing persons approved by the council to contact and counsel persons within the community suspected of using narcotics or dangerous drugs, or those persons allegedly having knowledge of such usage.

(d) Cooperating with other narcotic guidance councils and with the state, and federal narcotics commissions and agencies in bringing local and community trouble areas to their attention.

(Code 1957, § 2-511.2; Ord. No. 980/70, § 1, 6-25-70)

Secs. 2-185--2-189. Reserved.

DIVISION 4. ADVISORY BOARD FOR SENIORS

Sec. 2-190. Creation, composition and administration.

(a) There is hereby created and established a Long Beach Advisory Board for Seniors.

(b) The advisory board for seniors shall be comprised of nine (9) members who shall be appointed by the city manager, with the advice of the city council, and each of such members shall hold office at the pleasure of the city manager. No member of the board shall receive any salary or other remuneration for his services. The chairperson of the board shall be selected by a majority vote of the members.

(c) The chairperson, with the advice of the other members of the board, may promulgate, adopt, amend or rescind rules and regulations necessary to carry out the provisions of this division.

(Ord. No. 1516/83, § 1, 10-18-83; Ord. No. 1614/87, § 1, 1-20-87; Ord. No. 2028/08, § 1, 7-1-08)

Sec. 2-191. General powers and duties.

The advisory board for seniors shall have the following powers and duties:

(a) To advise and assist the city manager and the city council in developing policies designed to help meet the needs of seniors and to encourage the full participation of seniors in society.

(b) To coordinate city programs and activities relating to seniors.

(c) To stimulate community interest in the problems of seniors.

(d) To promote public awareness of resources available for seniors, and to refer the public to appropriate departments and agencies of the city, state and federal governments for advice, assistance and available services in connection with particular problems.

(e) To cooperate with and assist in the development of local programs for seniors.

(f) To serve as a clearing house for information relating to the needs of seniors.

(g) To make recommendations to the city manager and the city council for the presentation of an annual award to a senior citizen for outstanding and unusual contributions to the community.

(Ord. No. 1516/83, § 1, 10-18-83; Ord. No. 2028/08, § 1, 7-1-08)

Secs. 2-192--2-199. Reserved.

DIVISION 5. YOUTH BUREAU*

***Editor's note:** Ord. No. 1299/75, adopted Nov. 18, 1975, amended the Code by adding Div. 5, §§ 2-200--2-210, as herein set out.

Sec. 2-200. Creation of youth bureau.

A youth bureau of the City of Long Beach is hereby created and established pursuant to section 95 of the New York General Municipal Law and Article 19-A of the New York Executive Law, for all of the purposes mentioned and described in said laws.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-201. Definitions.

For the purposes of this division, the following words shall have the following meanings:

(a) *Youth* shall mean any person under twenty-one (21) years of age.

(b) *Bureau* shall mean the City of Long Beach Youth Bureau.

(c) *Board* shall mean the City of Long Beach Youth Board.

(d) *Local corporations* shall mean corporations within the City of Long Beach funded by public or private monies to provide services to youth of the city.

(e) *Youth programs* shall mean any program designed to accomplish the objectives of the youth bureau.

(f) *Executive director* shall mean the head of the youth bureau and the executive secretary to the youth board.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-202. Objectives.

The youth bureau shall develop a coordinated and cooperative comprehensive city-wide plan to provide for the delivery of youth services to promote the healthy development of young people, to develop programs designed to prevent individual and social maladjustment and pathology, and to provide appropriate treatment and diversionary programs for youth involved in delinquent or anti-social behavior, as follows:

(a) To conduct ongoing research to determine the needs of youth in the community;

(b) To inventory community resources capable of meeting the needs of youth;

(c) To integrate and help coordinate the service of local, public, and private agencies developing a synergistic delivery system avoiding duplication of

services;

(d) To serve as local contract agency for all federal, state and county monies providing youth services in the City of Long Beach, these monies to be administered directly or to be subcontracted to other community agencies or institutions as determined by the city youth board;

(e) To operate directly certain youth services which in the judgment of the board are most appropriately delivered under the aegis of the city;

(f) To provide comprehensive planning to insure that all youth services and programs both public and private be strategically located, maximally beneficial and priority oriented;

(g) To maintain a continuous research program to develop insights from the various disciplines of the social sciences applicable to the analysis of problems and processes affecting the healthy development of young people and the development of programs to promote healthy ego epigenesis and positive social systems;

(h) To assist community groups, agencies and institutions to define principles of healthy child development in terms of desired adult behavior, emotional and intellectual outcomes and to analyze the fundamental assumptions and processes by which these groups function in terms of their principles of child development.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-203. Organization of youth bureau.

(a) The youth bureau shall consist of a youth board, executive director and whatever staff personnel the youth board deems necessary to accomplish the objectives of the youth bureau. The City of Long Beach Youth Board shall consist of persons representing the fields of education, law enforcement, mental hygiene, judiciary, welfare, business, recreation and youth organizations, who shall be appointed by the city manager. The board, in fulfilling its obligations to the youth bureau, shall advise and assist community groups devoted in whole or in part to youth, administer youth programs at the request of the youth bureau, and recommend legislation. The executive director shall be the executive secretary of the board. The executive secretary shall have no vote in the official deliberations of the board, but shall administer to its needs and requirements in the fulfillment of its obligations to the youth bureau.

(b) The youth bureau shall operate within and subject to the rules and regulations promulgated by the youth board, and upon such conditions as to qualify for state aid under Article 19-A of the Executive Law of the State of New York and any amendments thereto. The youth bureau shall participate in the comprehensive county plan of the Nassau County Youth Board and act as contract agency for all county monies for programs within Long Beach whose primary focus is service to youth within the family, community, institutional or agency structures. The youth bureau shall either administer such programs directly or subcontract to whatever agency it deems most effective to deliver such service programs. The Bureau shall be staffed by an executive director and such other personnel as shall be deemed necessary for accomplishing the goals of the youth bureau. The

executive director, pursuant to Article 19-G of the Executive Law of the State of New York and any amendments thereto, shall be responsible for the purpose of planning, coordinating and supplementing the activities of public, private or religious agencies devoted in whole or in part to the welfare and protection of the youth.

(c) The youth board may adopt such bylaws as it deems suitable.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-204. Composition of youth board.

(a) The board shall consist of a minimum of fifteen (15) members and a maximum of twenty-eight (28) adults and youth who shall be appointed by the city manager of the City of Long Beach.

(b) One member of the board shall be designated as chairperson for a specified term by the city manager.

(c) Officers other than the chairperson shall be elected from and by the board.

(d) Officers of the board shall not be considered employees of the City of Long Beach for any reason whatsoever.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-205. Term of office.

Each member of the board shall be appointed for a term of four (4) years except that of the members first appointed, one-third shall be appointed for a two-year term, one-third for a three-year term and the remaining third for a four-year term.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-206. Vacancies and removals.

(a) Any member of the board appointed to fill a vacancy occurring otherwise than by expiration of term shall be appointed by the city manager for the remainder of the unexpired term of the member replaced.

(b) The city manager may remove any member of the board for cause.

(c) If a member of the board is absent from three (3) consecutive scheduled (not special) meetings, and not excused by the chairperson of the board, the board shall declare his or her position vacant.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-207. Personnel.

The board may recommend to the city manager employment of personnel, who shall be responsible to the executive director of the youth bureau. The city manager shall make appointments to the staff of the youth bureau after consultation with the youth board and the executive director.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-208. Compensation.

The chairperson and all other members of the board shall serve without compensation, but shall be allowed all actual and necessary expenses incurred in the performance of their duties set forth in section 2-210, within the amount made available by appropriations of the city council.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-209. Meetings.

(a) The board shall meet monthly and at such additional times as the chairperson of the board or a majority thereof may determine.

(b) One-half of the voting members shall constitute a quorum. A majority of those present and voting must approve any action of the board. Each voting member shall have one vote which must be cast in person.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-210. Powers and duties of the board.

The board shall have the following powers and duties:

(a) Receive and expend grants from the state, federal, or county governments or from private individuals, corporations or associations and establish a reasonable basis for allocation of these funds to youth programs so as to serve most effectively the objectives of this division.

(b) Serve as local contract agency for all programs dealing with protection of minors, prevention or treatment of child abuse, development of healthy family life or prevention and treatment of family pathology or dysfunction whether such programs are funded by private or public monies, such monies and programs to be administered directly or to be subcontracted to other community agencies or institutions as determined by the city youth board.

(c) Serve as local contract agency for all federal, state, county and private monies from whatever source whose purpose is to provide youth development and delinquency prevention services within the City of Long Beach, to be administered directly or to be subcontracted to other community agencies or institutions as determined by the city youth board. Long Beach Reach Inc., and the Center for the Development of Community Education and Information Outreach Systems, Inc. (the Community School), may continue their present status as direct local contract agencies for these monies for a period not to exceed two (2) years from the date of enactment of this division, at which time a review of their status will be made. Upon concurrence of their respective boards and the city youth board, they shall be subject to direct administration by the city. During this period, they will remain an integral part of the Long Beach Youth Mobilization Project and relate in every other manner to the

Long Beach Youth Bureau for purposes of comprehensive planning and delivery of youth services.

(d) Approve or reject applications for federal, state, and/or county financial assistance to public and private agencies seeking to engage in the development and expansion of recreation and youth service projects as defined by the laws of the State of New York and the regulation of the New York State Division of Youth.

(e) Devise, analyze, accept or reject plans for the creation or expansion of recreation and youth service projects or other youth programs and make appropriate recommendations to the city manager and city council of Long Beach.

(f) Obtain, assemble and develop statistical records and data, including those that reflect the incidence and trends of delinquency and youthful crimes and offenses in the City of Long Beach.

(g) Make necessary studies and recommendations with respect to: (1) family affairs and problems, (2) youthful guidance, (3) adult education, (4) recreation, (5) rehabilitation of juvenile delinquents, and (6) parole, institutional or other corrective treatment.

(h) Develop and effect policies and programs such as guidance, education, counseling, community involvement and recreation for the board and any established local youth bureaus.

(i) Supplement and aid in coordinating the activities of public, private and religious agencies devoted in whole or in part to the prevention of delinquency and youthful offenders and serve as a consultant to such agencies.

(j) Encourage closer cooperation between all public and private agencies and groups so as to stimulate employment for youth and encourage sound youth programs on the basis of community planning.

(k) Cooperate with all public and private agencies and groups in developing plans, programs and facilities designed to promote the welfare of youth.

(l) Establish local youth development corporations to oversee youth programs in specific communities in the City of Long Beach.

(m) Foster educational programs in connection with youth problems.

(n) Appoint such advisory groups and committees as may be necessary to carry out its powers and duties.

(o) Keep minutes of all meetings.

(p) Submit a monthly report to the city manager, and an annual report within forty-five (45) days after the close of the fiscal year of the City of Long Beach.

(q) Submit a proposed annual budget to the city manager.

(Ord. No. 1299/75, § 2, 11-18-75)

Sec. 2-210. Powers and duties of the board.

Secs. 2-211--2-219. Reserved.

DIVISION 6. CONSUMER PROTECTION*

***Editor's note:** Ord. No. 1298/75, adopted Nov. 5, 1975, amended the Code by adding Div. 6, §§ 2-220--2-227.

Sec. 2-220. Unfair trade practices prohibited.

No person shall engage in any deceptive or unconscionable trade practice in the sale, lease, rental or loan or in the offering for sale, lease, rental or loan of any consumer goods or services, in the extension of consumer credit, or in the collection of consumer debts.

(Ord. No. 1298/75, § 1, 11-5-75)

Sec. 2-221. Definitions.

(a) *Person.* An individual, merchant, partnership, firm or corporation.

(b) *Deceptive trade practice.* Any false, falsely disparaging, or misleading oral or written statement, visual description or other representation of any kind, which has the capacity, tendency or effect of deceiving or misleading consumers and is made in connection with the sale, lease, rental or loan of consumer goods or services; the offering for sale, lease, rental or loan of consumer goods or services; the extension of consumer credit; or the collection of consumer debts. Deceptive trade practices include but are not limited to:

(1) Representations that:

a. Goods or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have;

b. The merchant has a sponsorship, approval, status, affiliation, or connection that he does not have;

c. Goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, or secondhand;

d. Goods or services are of particular standard, quality, grade, style or model, if they are of another.

(2) The use, in any oral or written representation, of exaggeration, innuendo or ambiguity as to a material fact;

(3) Failure to state a material fact if such use or failure deceives or tends to deceive;

(4) Disparaging the goods, services, or business of another by false or misleading representations of material facts;

(5) Offering goods or services without intent to sell them;

(6) Offering goods or services without intent to supply reasonably expectable public demand, unless the offer discloses the limitation;

(7) Making false or misleading representations of fact concerning: the reason for, existence of, or amounts of price reductions; or the price in comparison to prices of competitors or one's own price at a past or future time;

(8) Falsely stating that a consumer transaction involves consumer rights, remedies or obligations;

(9) Falsely stating that services, replacements or repairs are needed; and

(10) Falsely stating the reasons for offering or supplying goods or services at sale or discount prices.

(c) *Unconscionable trade practice.* Any act or practice is unconscionable if it takes unfair advantage of the lack of knowledge, ability, experience or capacity of a consumer which results in a gross disparity in the rights of a consumer as against the merchant or results in a gross disparity between the value received by a consumer and the price paid by the consumer.

(d) *Consumer goods, services, credit and debts.* Goods, services, credit and debts which are primarily for personal, household or family purposes.

(e) *Consumer.* A purchaser, lessee or recipient or prospective purchaser, lessee or recipient of consumer goods or services or consumer credit, including a co-obligor or surety.

(f) *Merchant.* A manufacturer, supplier, seller, lessor, creditor or other person, firm or corporation who makes available to consumers, either directly or indirectly, goods, services or credit.

(g) *Director.* The director of consumer protection.

(Ord. No. 1298/75, § 1, 11-5-75)

Sec. 2-222. Rules and regulations.

The director may, after a public hearing previously authorized by the city manager in writing, adopt such rules and regulations as may be necessary to effectuate the purposes of this division, including regulations defining specific deceptive or unconscionable trade practices. At least seven (7) days' prior notice of such public hearing shall be published in the official newspaper of the city. A copy of the rules and regulations adopted hereunder and any amendments thereto shall be filed in the office of the city clerk, and a copy provided each member of the council. Such rules and regulations shall take effect on the thirtieth day after filing with the city clerk unless disapproved in whole or in part by resolution of the city council.

(Ord. No. 1298/75, § 1, 11-5-75)

Sec. 2-223. Enforcement.

(a) The violation of any provision of this division or of any rule or regulation promulgated hereunder shall render the violator liable for the payment to the city

of a civil penalty, recoverable in a civil action, in the sum of not more than five hundred dollars ($500.00) for each such violation.

(b) Whenever any person has engaged in any acts or practices which constitute repeated, persistent or multiple violations of any provisions of this section or of any rule or regulation promulgated hereunder, the corporation counsel, upon the request of the director of consumer protection, may make application to the supreme court for a temporary or permanent injunction, restraining order, or other equitable relief.

(Ord. No. 1298/75, § 1, 11-5-75)

Sec. 2-224. Settlements.

(a) In lieu of instituting or continuing an action or proceeding, the director may accept written assurance of discontinuance of any act or practice in violation of this division. Such assurance may include a stipulation for the payment by the violator of the costs of investigation by the director and may also include a stipulation for the restitution by the violator to consumers of money, property or other things received from such consumers in connection with a violation of this division.

(b) An assurance entered into pursuant to this section shall not be deemed to admit the violation unless it does so by its terms. Violation of an assurance entered into pursuant to this section shall be treated as a violation of this division and shall be subject to all the penalties provided therefor.

(Ord. No. 1298/75, § 1, 11-5-75)

Sec. 2-225. Exclusions.

Nothing in this division shall apply to any television or radio broadcasting station or to any publisher or printer of a newspaper, magazine, or other form of printed advertising, who broadcasts, publishes, or prints an advertisement which violates this division except insofar as such station or publisher or printer engages in a deceptive or unconscionable practice in the sale or offering for sale of its own goods or services.

(Ord. No. 1298/75, § 1, 11-5-75)

Sec. 2-226. Powers not limited.

The powers of the director of consumer protection set forth herein shall be in addition to and shall not limit or be in derogation of powers granted by any other enactment.

(Ord. No. 1298/75, § 1, 11-5-75)

Sec. 2-227. Separability.

If any provision of this division or the application of such provision to any person or circumstance shall be held unconstitutional or invalid, the constitutionality or validity of the remainder of this division and the applicability of such provision to other persons or circumstances shall not be affected thereby.

(Ord. No. 1298/75, § 1, 11-5-75)

[Secs. 2-228--2-229. Reserved.]

DIVISION 7. HOUSING AND PROPERTY REHABILITATION AND CONSERVATION ADVISORY COMMISSION*

***Editor's note:** Ord. No. 1302/75, adopted Dec. 16, 1975, amended the Code by adding Div. 7, §§ 2-230--2-232.

Cross references: Housing and property rehabilitation and conservation code, Ch. 13.

Sec. 2-230. Creation; composition and designation of chairperson.

There is hereby established a housing and property rehabilitation and conservation advisory commission, which shall consist of not more than nine (9) members. The city manager shall appoint the members of the commission and shall designate one of the members so appointed to serve as chairperson. The member designated as chairperson shall serve as chairperson at the pleasure of the city manager.

(Ord. No. 1302/75, § 1, 12-16-75)

Sec. 2-231. Terms of members; filling vacancies.

The members of the commission shall be appointed for a term of two (2) years and shall serve without salary. In the event that a vacancy occurs other than by the expiration of a term of office, the city manager may appoint a member to the commission to serve for the duration of the unexpired term.

(Ord. No. 1302/75, § 1, 12-16-75)

Sec. 2-232. General duties of the commission.

It shall be the duty of the commission to:

(a) Advise and make recommendations to the building commissioner and the city manager concerning the operation of the building department.

(b) Advise and assist the building commissioner in any matter he deems appropriate.

(c) Advise and make recommendations to the city council concerning the enactment of laws concerning housing and property rehabilitation and conservation in the City of Long Beach.

(Ord. No. 1302/75, § 1, 12-16-75)

DIVISION 8. ENVIRONMENTAL ADVISORY BOARD.

Sec. 2-235. Creation, composition and administration.

(a) There is hereby created and established a Long Beach Environmental Advisory Board.

(b) The Environmental Advisory Board shall be comprised of seven (7) members who shall be appointed by the city manager and each of such members shall hold office at the pleasure of the city manager. No member of the board shall receive any salary or other remuneration for his or her services. The chairperson of the board shall be selected by the City Manager. The city manager shall designate one (1) employee liaison from the City as a member of the board.

(c) The members of the board shall be appointed for a term of two (2) years. In the event that a vacancy occurs other than by the expiration of a term of office, the city manager may appoint a member to the board to serve for the duration of the unexpired term.

(Ord. No. 3044/21, § 1, 01-05-2021)

Sec. 2-236. General powers and duties.

The Environmental Advisory Board shall have the following powers and duties:

(a) To advise, assist and make recommendations to the city manager and the city council in developing policies designed to help protect, restore and enhance the environment.

(b) To coordinate city programs and activities relating to environmental issues.

(c) To stimulate community interest in environmental issues.

(d) To promote public awareness of resources available and to refer the public to appropriate departments and agencies of the city, state and federal governments for advice and assistance regarding environmental issues.

(e) To cooperate with and assist in the development of local programs to protect, restore and enhance the environment.”

(Ord. No. 2044/09, § 1, 8-4-2009)

DIVISION 9. PUBLIC SAFETY COMMISSION.

Sec. 2-240. Creation, composition and administration.

(a) There is hereby created and established a Public Safety Commission for the City of Long Beach.

(b) The Public Safety Commission shall be comprised of eight (8) members who shall be appointed by the City Manager, with the advice of the City Council, and each of such members shall hold office at the pleasure of the City Manager. The members of the commission shall consist of six (6) residents and two (2) employees of the City. The chairperson of the commission shall be selected by the City Manager.

(Ord. No. 2064/12, § 1, 2-21-2012)

Sec. 2-241. Term of members; filling vacancies.

The members of the commission shall be appointed for a term of two (2) years and shall serve without salary. In the event that a vacancy occurs other than by the expiration of a term of office, the City Manager may appoint a member to the commission to serve for the duration of the unexpired term.

(Ord. No. 2064/12, § 1, 2-21-2012)

Sec. 2-242. Objectives.

The objective of the Public Safety Commission is to establish a dialogue between citizens and employees of the City in order to create more awareness about safety concerns within our City.

(Ord. No. 2064/12, § 1, 2-21-2012)

Sec. 2-243. General duties of the commission.

The Public Safety Commission may make recommendations to the City Manager and to the City Council with respect to matters concerning the City's police and fire services, emergency medical services, animal control, emergency preparedness, pedestrian safety, and such other matters as directed by the City Council.

(Ord. No. 2064/12, § 1, 2-21-2012)

Sec. 2-244. Meetings.

The Public Safety Commission shall meet once a month and shall keep accurate

records of each meeting. Any recommendations resulting from those meeting shall be presented to the City Manager and to the City Council.

(Ord. No. 2064/12, § 1, 2-21-2012)

DIVISION 10. COUNCIL FOR THE ARTS.

Sec. 2-250. Objective.

The objective of the Council for the Arts is to encourage artistic awareness and to enhance the cultural environment of the City of Long Beach through the promotion of all media of the arts. To promote the arts, education about the arts, increase the display of art in public spaces and promote collaboration amongst the various arts organizations.

(Ord. No. 2093/14, § 1, 10-7-2014)

Sec. 2-251. Creation, composition and administration.

(a) There is hereby created and established a Council for the Arts for the City of Long Beach

(b) The Council for the Arts shall be comprised of eleven (11) members who shall be appointed by the City Manager. The members of the Council shall consist of representatives from all disciplines of the arts community active within the City and one employee liaison from the City. The chairperson of the Council shall be selected by the City Manager.

(Ord. No. 2093/14, § 1, 10-7-2014 ; Ord. No. 3055/21, 07-20-2021)

Sec. 2-252. Term of members; filling vacancies

The members of the Council shall be appointed for a term of two (2) years and shall serve without salary at the pleasure of the City Manager. In the event that a vacancy occurs other than by the expiration of a term of office, the City Manager may appoint a member to the Council to serve for the duration of the unexpired term.

(Ord. No. 2093/14, § 1, 10-7-2014)

Sec. 2-253. General duties of the Council

(a) To advise, assist and make recommendations to the City Manager and the City Council in developing new art programs, cultural activities and initiatives to enhance the arts within the City for the enjoyment of the general public.

(b) To promote public awareness of resources and educational programs available through local art organizations for the enjoyment of all residents and visitors of the City.

(Ord. No. 2093/14, § 1, 10-7-2014)

Sec. 2-254. Meetings

The Council for the Arts shall meet once a month and shall keep accurate records of each meeting. Any recommendations resulting from those meeting shall be presented to the City Manager and to the City Council.

(Ord. No. 2093/14, § 1, 10-7-2014)

Chapter 3 ADVERTISING, SIGNS AND POSTING BILLS*

***Editor's note:** Ord. No. 1689/89, § 1, adopted February 21, 1989, repealed former Ch. 3 in its entirety and enacted new provisions therefor. Former Ch. 3 was concerned with similar provisions and derived from the Code of 1957 and the following legislation:

Ord. No.	Date	Ord. No.	Date	Ord. No.	Date
238-E	3-7-61	727	8-4-64	1133/72	7-11-72
238-F	7-5-61	753	6-1-65	1252/74	9-24-74
665	11-7-62	788	5-3-66	1504/83	5-3-83
697	1-7-64	1027/71	3-2-71	1510/83	8-2-83
706	3-9-64	1106/71	12-7-71	1618/87	2-3-87

Art. I. Signs, §§ 3-1--3-10
Art. II. Posting Bills, §§ 3-11--3-13
Art. III. Youth Protection Against Tobacco Advertising and Promotion Act, §§ 3-14--3-20

ARTICLE I. SIGNS

Sec. 3-1. Legislative intent.

(a) The purpose of this chapter is to promote nad protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space, and curb the deterioration of the community's appearance and attractiveness.

(b) The provisions of this article shall govern the construction, erection, alteration, repair and maintenance of all signs together with their appurtenant and auxiliary devices.

(Ord. No. 1689/89, § 1, 2-21-89)

Sec. 3-2. Definitions.

As used in this article, the following words and phrases shall have the following meanings:

Accessory sign. Any sign related to a business or profession conducted upon or to a commodity or service sold or offered upon or from the premises where such sign is located.

Animated sign. Any sign which is designed and constructed to give its message

through a sequence of progressive changes of parts (including sequins or similar devices) or lights or degree of reflection or lighting, excluding time and temperature signs.

Applicant. A person making an application for a permit for a sign or signs.

Awning. A roof-like retractable covering of fabric, cloth or other material with or without a frame and attached to or supported from a building.

Billboard. Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered, upon or from the premises where such sign is located; or bearing a noncommercial message of an owner who does not conduct a business or profession at the location of said sign.

Business districts. Areas located wholly or partly within the following use districts as defined in Appendix A, Zoning, of the Code of Ordinances of the City of Long Beach:

(1) Business A.

(2) Business B.

(3) Business C.

(4) Industrial.

(5) Residential-Business A.

Canopy. A structure made of cloth, metal or other material with frame attached to a building, projecting over a thoroughfare, or carried by a frame supported by the ground or sidewalk.

Canopy awning. An awning attached to a fixed, nonmovable framework.

Commissioner. Commissioner of Buildings of the City of Long Beach.

Erect. To build, construct, alter, display, relocate, attach, hang, place, suspend or affix any sign.

Face of building. The outer surface of a building which is visible from any private or public street, highway or public parking field.

Freestanding (ground) sign. A sign supported by uprights or braces in or upon the ground and not attached to any part of a building.

Illuminated sign. Any sign illuminated by electricity, gas or other man-made light, including reflective or phosphorescent light.

Interior sign. Any sign located on the inside of a window or within three (3) feet of the inside of a display window or other opening in a building or other enclosed structure which is visible from the exterior through such window or other opening intended to attract the attention of the public. This term does not include merchandise located in a window.

Lighting device. Any light, string of lights or group of lights located or arranged so as to cast illumination on a sign.

Mansard. An ornamental topping that crowns the structure it is on. An exterior ornamental trim at the meeting of the roof and wall. This type of mansard usually includes a bed molding, a soffit, a fascia, and a crown molding.

Marquee. Any hood of permanent construction projecting from the wall of a building above an entrance and extending over a thoroughfare.

Owner. Person that owns the sign or signs.

Pennant. Any long, narrow, usually triangular flag, fabric, streamer cloth or other material. As used in this definition, the word "pennant" shall include any materials commonly known as "pennants" including, but not limited to, automobile dealerships, grand openings, and construction sites.

Person. Any person, firm, partnership, association, corporation, company, institution or organization of any kind.

Political sign. Any sign which indicates the name, cause or affiliation of anyone seeking public office, or which indicates any issue for which a public election is scheduled to be held.

Portable sign. A sign not attached to the ground or to any permanent structure. This includes A-frame and sandwich-board-type signs.

Projecting sign. A sign designed to project beyond any face of a building and perpendicular to it.

Residential districts. Areas not within a business district as defined herein.

Roof sign. A sign which is erected, constructed or maintained on, above or as part of the roof of any building. This includes signs on any portion of a mansard but shall not include wall signs attached to a parapet.

Sign. Any message attached to any structure or part thereof or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is in the nature of an announcement, direction or advertisement. The word "sign" includes the words billboard, freestanding sign, interior sign, as well as any message, neon tube or string, group or arrangement of lights, or other device, material hung, outlining, painted upon or attached to part of a building or lot, but does not include flag, pennant or insignia of any nation, state, city or other governmental unit.

Sign area. The area of a sign to be measured as follows:

(1) Where such sign is on a plate, within a frame or is outlined, all of the area of such plate or area within such frame or outline shall be included.

(2) Where the sign consists of individual letters, designs, figures or symbols engraved, painted or in any way placed, affixed or attached to any part of the exterior of a building or structure or any part thereof, the area shall be considered to be that of the smallest geometric shape which encompasses all of the letters, designs, figures or symbols.

Structural trim. The molding, battens, cappings, nailing strips, latticing and platforms which are attached to the sign structure.

Temporary sign. A sign which is designed to advertise or announce a particular event or series of events, to solicit political support or to announce the availability for sale of a particular item or items or the offer of services which will be available for a limited period.

Trailer sign. Any sign mounted on a vehicle normally licensed by the State of New York or other state as a trailer and used for advertising or promotional purposes.

Wall sign. A sign which is placed, affixed or attached to a building and is parallel to the face of the building and does not extend higher than the lowest elevation of the roof; provided, however, that wall signs attached to a parapet may extend not more than four (4) feet higher than the lowest elevation of the roof.

(Ord. No. 1689/89, § 1, 2-21-89)

Sec. 3-3. Exemptions.

The following signs shall be exempt from the provisions of this chapter except as may be expressly regulated elsewhere in this article:

(a) Real estate signs, not exceeding four (4) square feet in area, which advertise the sale, rental or lease of only the premises upon which the signs are located. Said signs shall not be illuminated and shall be removed within seven (7) days after sale, rental or lease has been effectuated.

(b) Construction signs. One (1) construction sign per construction project not exceeding sixteen (16) square feet in sign area in residential and business districts, provided that such signs shall be erected no more than thirty (30) days prior to the beginning of construction for which a building permit has been issued, shall be confined to the site of construction, and shall be removed within thirty (30) days after completion of construction and prior to the issuance of a certificate of occupancy.

(c) Home improvement contractor signs limited to a maximum of eight (8) square feet on any individual property, provided that the sign is displayed only during the actual project.

(d) Directional or instructional signs. Signs which provide direction or instruction and are located entirely on the property to which they pertain and do not exceed four (4) square feet in area; signs identifying rest rooms, public telephones, walkways, or signs providing direction, such as parking lot entrances and exits and those of a similar nature, provided that there is no advertising on said sign.

(e) The flags, emblems or insignia of any nation, governmental subdivision, religious or fraternal organization or corporation.

(f) Governmental signs for control of traffic and other regulatory purposes, street signs, danger signs, railroad crossing signs, and signs of public service companies indicating danger and aids to service or safety which are erected by or on the order of a public officer in the performance of his public duty.

(g) Holiday decoration signs of a primarily decorative nature, clearly incidental and customary and commonly associated with any national, local or religious holidays. Said signs shall not be erected more than ninety (90) days prior to the holiday and shall be removed within thirty (30) days after the holiday.

(h) Residential name plates not exceeding fifty-four (54) square inches in area.

(i) Professional or occupation signs denoting only the name and profession of an occupant in a commercial building, public institutional building or dwelling, and

not exceeding seven (7) square feet in area. This limitation shall apply regardless of the number of signs attached together.

(j) Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other incombustible material.

(k) Notice bulletin boards not over thirty-two (32) square feet in area for public, charitable, religious or nonprofit medical or educational institutions where the same are located on the premises of said institution.

(l) Plaques or nameplate signs not more than four (4) square feet in area which are fastened directly to the building.

(m) Official notices posted by public officers or employees in the performance of the duties, including any notice or advertisement required by law in any legal proceeding.

(n) Symbols or insignia. Religious symbols, commemorative plaques of recognized historical agencies or identification emblems of religious organizations, fraternal organizations or historical agencies.

(o) Signs warning the public of the existence of danger to be removed upon the elimination of the danger. Said signs shall not contain any advertising material but may contain information identifying the person who erected said sign.

(p) Sign indicating hours of business, not exceeding three (3) square feet may be posted on the window surface on a permanent basis and shall not be counted toward maximum permitted signage.

(q) Time and temperature signs limited to twelve (12) square feet per side and containing no advertising material.

(r) Signs affixed to interior of business windows or show windows, provided same do not cover more than thirty (30) per cent of such windows or show windows.

(Ord. No. 1689/89, § 1, 2-21-89; Ord. No. 1909/99, § 1, 3-16-99)

Sec. 3-4. Prohibitions.

The following signs are prohibited:

(1) A-frame signs, sandwich-board sidewalk or curb signs.

(2) Trailer signs.

(3) Signs painted directly on a wall.

(4) Animated and moving signs, except for time and temperature signs.

(5) Banners.

(6) Billboards.

(7) Pennants.

(Ord. No. 1689/89, § 1, 2-21-89)

Sec. 3-5. Business districts.

(a) *General size and area.*

(1) No sign or combination of signs for any single use on or in a structure in a business district shall exceed an area equal to three (3) square feet for each foot of linear length of the street frontage of the structure in which such use is located or a maximum of seventy-five (75) square feet, whichever is less. No such sign shall have a height greater than three (3) feet. In computing the permitted sign area for a premises the area of permanent interior signs greater than ten (10) square feet shall be added to the area of any exterior signs in computing the permitted square footage of signs for a building. Where a single use occupies a building with a street frontage greater than seventy-five (75) feet, the permitted sign area shall be increased one (1) square foot for each linear foot of frontage over seventy-five (75) feet up to a maximum of one hundred ten (110) square feet of permitted sign area. Where there are two (2) or more occupants occupying a portion of the first floor frontage of a building, each such occupant shall be entitled to a sign based upon that portion of the frontage so occupied.

(2) Where multiple occupants share a common sign, the maximum sign area shall be limited as it there were a single occupant of the building or portion of the building occupied by those sharing the sign. Where a building has a rear entrance open to the public on a public way or municipal parking field or private parking area that is available for public use, one (1) wall sign shall be permitted on said rear wall. The permitted area of said sign shall be computed in the same manner as signs on the primary frontage. Where a building is on a corner and single use occupies both frontages, signs may be permitted on each frontage in accordance with the amount of signage permitted for each frontage.

(b) *Wall signs.*

(1) Wall signs shall be attache dot the face of the building on a plane parallel to such face and shall not extend nor project more than six (6) inches beyond the building line. Such sign shall not be attached to a wall at a height of less than ten (10) feet above the sidewalk or adjoining ground level, and shall not extend higher than the parapet in the case of a one-story building. In the case of buildings higher than one (1) story, wall signs shall not extend above the sill of any windows of the second story or more than fifteen (15) feet above the outside grade, whichever is lower, except as provided for herein.

(2) No wall sign shall cover wholly, or partially, any wall opening nor project beyond the ends or top of the wall to which it is attached.

(3) Wall signs shall be permitted on floors above the first story of a building, provided that:

a. The business displaying the sign is not on the ground floor.

b. Sign area shall not exceed twenty-four (24) square feet and a maximum height of two (2) feet.

(4) Signage on upper floor above the second floor shall be permitted, provided that:

a. Said sign shall be inside a window.

b. Said sign shall not cover more than twenty (20) per cent of the window area.

(5) All wall signs for which a permit is required by this article shall have a surface or facing of incombustible material; however, combustible structural trim may be used thereon.

(6) All wall signs shall be safely and securely attached to the building wall by means of metal anchors, bolts or expansion screws of not less than three-eighths (3/8) inch in diameter embedded in the wall at least five (5) inches; however, wall signs may rest in, or be bolted to, strong, heavy metal brackets, or saddles set not over six (6) feet apart, each of which shall be securely fixed to the wall as provided in this section. In no case shall any wall sign be secured with wire, strips of wood or nails.

(c) *Freestanding (ground) signs.*

(1) Freestanding signs shall be permitted only in business districts except as indicated in section 3-6(b).

(2) Only one (1) such sign shall be permitted for any building and shall be set back so that no part of such sign extends beyond the property line of the lot on which the building is located.

(3) It shall be unlawful to erect any freestanding sign whose total height is greater than fifteen (15) feet above grade level of the street upon which the sign faces.

(4) A freestanding sign may have two (2) faces, each of which may contain advertising. Such sign shall not contain more than thirty-two (32) square feet per face.

(5) No freestanding sign may be located less than fifteen (15) feet from any other sign, building or structure.

(6) All freestanding signs shall be securely built, constructed and erected upon posts or standards sunk at least three (3) feet below ground surface, and shall be supported and braced by supports or rods in the rear thereof, extending from the top thereof to a point in the ground at least a distance equal to one-half (1/2) the height of the sign, measured along the ground, from the posts or standards upon which the sign is erected.

(7) All posts anchors and bracing of wood shall be treated to protect them from moisture by creosoting or other approved methods.

(d) *Roof signs.* Roof signs shall be permitted only on those buildings within business districts in accordance with the following conditions:

(1) Only one (1) such sign shall be permitted on any building.

(2) The top of such sign shall not be more than twelve (12) feet above the

lowest elevation of the roof.

(3) The area of such sign shall not exceed thirty-two (32) square feet per sign face.

(4) Such signs shall be set back a minimum of five (5) feet from the exterior wall of the building on which the sign is located. Where roof parapets exist, a roof sign shall be set back a minimum of five (5) feet from the rear of all roof parapet walls.

(5) Roof signs shall have a clear space of a minimum of three (3) feet and a maximum of five (5) feet between the bottom of the sign and the roof below the sign or the top of the parapet wall, whichever is higher.

(6) All such roof signs shall be designed to withstand a minimum horizontal wind pressure as shown in the following table, applied to the projected specified area, allowing for wind from any direction.

Height From Ground to Top of Sign (feet)	*Wind Pressure (pounds per square foot)*	
	Solid Signs	*Open Signs*
Up to 30	25	15
31 through 50	35	25
51 through 99	42	30
100 through 199	49	35

(7) All roof signs shall be designed according to general accepted engineering practice to withstand wind pressure as specified in subsection (d)(6). The loads shall be distributed to the structural members of the building in such a way that these members will not be overstressed.

(8) The seal and certification of a professional engineer or registered architect licensed by the State of New York must be affixed to design specifications for each roof sign submitted with the application. The sign shall be recertified by a licensed professional engineer or registered architect every ten (10) years.

(9) No roof sign shall be placed on the roof of any building or structure in such a manner as to prevent free passage from one part of the roof to any other part thereof, or so as to interfere with openings in said roof.

(10) Each roof sign, including the upright supports and braces thereof, shall be constructed entirely of incombustible materials; however, combustible structural trim may be used thereon.

(11) Each roof sign shall be thoroughly secured to the building by iron or other metal anchors, bolts, supports, rods or braces. When erected upon buildings which are not constructed entirely of fireproof material, the bearing plates of the sign shall bear directly upon masonry walls and intermediate steel columns in the building. No roof sign shall be supported or anchored to the wooden framework of a building.

(e) *Projecting signs.* Projecting signs shall be permitted, provided that:

(1) Such sign does not have more than two (2) faces. Distance measured between the faces of any projecting sign shall not exceed eighteen (18) inches.

(2) Projecting signs shall be limited in area as follows:

a. Horizontal projecting signs shall not exceed fifty (50) square feet on each face.

b. Vertical projecting signs shall not exceed one hundred (100) square feet on each face.

The sign area of a projecting sign shall be counted as part of the permitted sign area.

(3) Each projecting sign shall be placed at least ten (10) feet above the public sidewalk over which it is erected, and a distance not greater than two (2) feet from the face of the wall to which it is attached, measured from the point of the sign therefrom. No projecting sign shall overhang or extend beyond the property line of a building lot.

(4) Each projecting sign, including the frames, braces and supports thereof, shall be designed by a structural engineer or manufacturer, and the design shall be submitted for approval by the building commissioner in compliance with this article.

(5) A projecting sign shall be constructed of incombustible materials.

(6) Projecting signs exceeding ten (10) square feet in area or fifty (50) pounds in weight shall not be attached to nor supported by frame buildings nor the wooden framework of a building; such signs shall be attached to masonry walls with galvanized expansion bolts at least three-eighths (3/8) inch in diameter, shall be fixed in the wall by means of bolts extending through the wall, which bolts shall have proper size metal washers or plates on the inside of the wall. No projecting sign shall be secured with wire, strips of wood or nails, nor shall any projecting sign be hung or secured to any other sign.

(7) A projecting sign may be illuminated. The reflectors shall be provided with the proper glass lenses concentrating the illumination upon the area of the sign and preventing glare upon the street or adjacent property; no floodlight, spotlight or reflector of the gooseneck type shall be permitted on projecting signs.

(8) The lettering or advertising designs on a projecting sign to be illuminated may be composed of glass or other transparent or semitransparent incombustible material. Any glass forming a part of any sign shall be safety glass or plate glass at least one-quarter (1/4) inch thick and in case any single piece or pane of glass has an area exceeding three (3) square feet, it shall be wired glass. One (1) section, not exceeding three (3) square feet in area, constructed of wire glass or safety glass shall be permitted on each side of a projecting sign.

(f) *Permanent interior signs.*

(1) In no case shall a permanent interior sign cover more than thirty (30) per

cent of the window area, provided that if there are more than one hundred fifty (150) square feet of window area, said interior sign shall be limited to no more than fifteen (15) per cent of the window area.

(2) Eighty (80) per cent of permanent interior signage exceeding ten (10) square feet in area shall be counted as part of the maximum sign area permitted for a particular use.

(g) *Temporary signs.* The commissioner may grant permission for the maintenance of one (1) or more temporary signs to a charitable, political or nonprofit organization for a period not to exceed seventy-five (75) days. Any such permitted signs shall be installed in accordance with the following provisions:

(1) Such sign shall not be erected earlier than seventy-five (75) days prior to the event of which it gives notice and shall be removed within ten (10) days after such event.

(2) Such sign shall not exceed thirty-two (32) square feet in area or eight (8) feet in height.

(3) Such sign shall not be located on trees, fences, utility poles or light standards.

(4) Such sign shall not be a roof sign.

(5) Only one (1) such sign shall be permitted on a lot.

(6) In the event that any such sign is not removed within the allowed time period, the commissioner shall cause to be removed those signs which remain. The applicant will be charged the cost of such removal.

(7) No temporary wall sign shall extend over or into any street, alley, sidewalk or other public thoroughfare a distance greater than four (4) inches from the wall upon which it is erected, and shall not be placed or project over any wall opening.

(8) A temporary sign announcing anticipated occupancy of a building site shall be permitted for a period not to exceed three (3) months without the commissioner's review, provided that such sign shall not exceed thirty-two (32) square feet if it is freestanding and shall not exceed the maximum permitted sign area for a building if it is affixed to a building.

(9) A temporary interior sign or combination of temporary interior signs shall not cover more than thirty (30) per cent of each window through or upon which it is affixed, displayed or painted. Such percentage of window coverage shall be reduced by the percentage of window coverage of any permanent interior sign (see section 3-5(f)(1)). Permissible temporary interior signs are allowed without permit.

(h) *Awnings and canopies.*

(1) Awnings and canopies may be constructed of fire-resistant cloth, plastic or metal; however, all frames and supports shall be of metal.

(2) Support structures for awnings and canopies shall be as follows:

a. Each awning shall be securely attached to and supported by the

building. Posts or columns beyond the building line shall not be permitted for awnings. No awning shall be attached to the wood jambs, frames or other wood members of a building, frame buildings excepted, when the building is less than ten (10) feet from public property.

b. The framework of all canopies shall be designed by a structural engineer and approved by the building commissioner in compliance with this Code.

All frames and supports shall be of metal and designed to withstand a wind pressure as prescribed in this article.

(3) Minimum height of awnings and canopies shall be as follows:

a. All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than eight (8) feet above the level of the sidewalk or public thoroughfare.

b. All canopies shall be constructed and erected so that the lowest portion thereof shall be not less than eight (8) feet above the level of the sidewalk or public thoroughfare.

(4) Setbacks for awnings and canopies shall be as follows: No awning or canopy shall be permitted to extend further than two (2) feet from the point at which such awning or canopy is attached to the building.

(5) Width of awnings and canopies shall be as follows:

a. No limitation shall be imposed on the width of awnings.

b. No canopy shall be permitted to exceed eight (8) feet in width.

(6) Awning and canopy signs not exceeding eight (8) inches in height may be painted or affixed flat to the surface of the front or side portions thereon, and shall indicate only the name and/or address of the enterprise conducted within the premises. Such sign shall not be counted as part of the maximum sign area of the structure to which it is attached.

(7) No sign may be hung from an awning or canopy.

(i) *Marquees and canopy awnings.*

(1) Marquees or canopy awnings shall not extend more than two and one-half (2 1/2) feet beyond either side of the entrance to any building or structure which the marquee or canopy awning serves.

(2) A marquee shall not extend more than eight (8) feet from the face of a building or structure. A canopy awning shall not be permitted to extend beyond a point twelve (12) inches inside the curbline.

(3) All parts of a marquee or canopy awning shall be at least eight (8) feet above the sidewalk, and the maximum overall dimensions between top and bottom of a marquee or canopy awning shall be twenty-four (24) inches.

(4) There shall be a clear distance of not less than twenty (20) feet between any two (2) marquees or canopy awnings on adjoining buildings, and in

no case shall there be more than one (1) marquee or canopy awning on any building.

(5) All marquees and framework of all canopy awnings shall be constructed of incombustible materials. In addition, all marquees shall be properly drained.

(6) Permitted signs for marquees and canopy awnings shall be as follows:

a. No sign shall be permitted on any marquee, other than signs built into and forming a part of the structure of the marquee which signs shall not exceed the height of twenty-four (24) inches and shall not extend beyond the edge of the marquee. The area of any sign on a marquee shall not be counted as part of the maximum sign area of the structure to which it is attached.

b. Canopy awning signs not exceeding eight (8) inches in height may be painted or affixed flat to the surface of the front or side portions thereon, and shall indicate only the name and/or address of the enterprise conducted within the premises. Such sign shall not be counted as part of the maximum sign area of the structure to which it is attached.

(Ord. No. 1689/89, § 1, 2-21-89; Ord. No. 1917/99, § 1, 6-15-99)

Sec. 3-6. Residential districts.

(a) Dwellings for eight (8) or more families may have displayed nonilluminated signs identifying the premises, having an aggregate total face area of not more than twenty-four (24) square feet and located so that no portion of the sign overhangs or extends beyond the building line of the dwelling.

(b) Freestanding political signs are permitted, provided they comply with the relevant subsections of section 3-5(c), freestanding (ground) signs, and section 3-5(g), temporary signs.

(Ord. No. 1689/89, § 1, 2-21-89)

Sec. 3-7. Provisions applicable to all districts.

(a) No sign shall contain information regarding a business, product or service not conducted at or available from the premises at which the sign is located.

(b) Every illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. Permanent signs illuminated from outside the boundaries of the sign shall not be permitted unless the direct beam or glare is not visible from any abutting right-of-way or any adjacent property. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

(c) No sign shall consist of banners, pennants, ribbons, streamers, spinners or

similar moving, fluttering or revolving devices.

(d) No sign shall be erected, affixed or maintained within the perimeter of any public mall, or upon any public street or public property.

(e) No wall sign shall be erected, located or maintained so as to prevent free ingress to or egress from any door, window, or fire escape.

(f) A sign shall not be placed in a position that will obstruct or impair vision or interfere with vehicular traffic or in any manner create a hazard or disturbance to health, safety or welfare of the public.

(g) A sign shall not utilize more than four (4) colors. Black and white shall be considered as colors.

(h) A sign shall not utilize the colors red, yellow or green where, in the judgment of the commissioner of police of the City of Long Beach, a potential safety hazard would be created due to a conflict with traffic-control devices.

(Ord. No. 1689/89, § 1, 2-21-89)

Sec. 3-8. Permit procedure.

(a) Except for signs covered in sections 3-3 and 3-5(g)(9) herein, it shall be unlawful for any person to erect, alter, paint with a new message, redesign, relocate, reconstruct or maintain, or cause to be erected, altered, painted with a new message, redesigned, relocated, reconstructed and maintained any sign, without first having obtained a permit therefor from the building commissioner and making payment of the fee required by this section. In addition, all illuminated signs shall be subject to the provisions of the Code with regard to electrical work and the permit fees required thereunder.

(b) The following two (2) operations shall not require a sign permit:

(1) Replacing copy. The changing of the advertising or message on an approved sign, provided that the sign refers to the same use or activity in accordance with this article and that the letters are legible in the particular circumstances.

(2) Maintenance. Painting, repainting, cleaning and other normal maintenance and repair of a sign or a sign structure unless a structural change is made.

(c) An application for a permit required by this section shall be made upon blanks provided by the building commissioner, and shall contain or have attached thereto the following information:

(1) The name, address and telephone number of the applicant.

(2) The location of the building, structure or lot to which or upon which the sign is to be attached or erected.

(3) The position of the sign in relation to nearby buildings or structures.

(4) Two (2) blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.

(5) A copy of stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in the amount required by this Code and all other laws and ordinances of the city.

(6) The name of the person erecting the sign.

(7) A written consent of the owner of the building, structure or land to which or on which the sign is to be erected.

(8) Any sign with electrical wiring shall require filing of an application with the New York Board of Fire Underwriters prior to issuance of subject sign permit.

(9) The insurance policy or bond as required by this article.

(10) The nature and purpose of the proposed sign.

(11) Such other information as the building commissioner shall require to show full compliance with this Code and all other laws and ordinances of the city.

(d) Each applicant for a permit required by this section, before being granted the permit, shall pay to the city treasurer the following annual permit fee for each sign:

(1) For a permit required by this section to erect or maintain a sign or for the renewal of any such permit, the fee shall be fifty dollars ($50.00).

(2) The fee for a canopy permit shall be one hundred fifty dollars ($150.00).

(3) The fee for a marquee permit shall be two hundred ($200.00).

(4) The fees established in this section and the permits required by this division shall be renewed annually.

(e) It shall be the duty of the building commissioner, upon the filing of an application for a permit required by this section to examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign. The building commissioner shall also investigate the circumstances of the proposed application, and if it shall appear that the proposed structure is in compliance with all the requirements of this article and all other laws and ordinances of the city, he shall issue the erection permit. The building commissioner may impose such reasonable restrictions and provisions upon the issuance of a permit as he may deem necessary in the interest of the city and for the protection of persons and property.

(f) If the work authorized by a permit issued pursuant to this section has not been completed within six (6) months after the date of issuance, the permit shall become null and void.

(g) The building commissioner is authorized and empowered to revoke any permit issued by him pursuant to this section upon failure of the holder thereof to comply with any provision of this article.

(h) The application for a permit required by this section for which electrical wiring and connections are to be used shall be submitted to the electrical inspector. The electrical inspector shall examine the plans and specifications respecting all

wiring and connections to determine if the proposed sign complies with this Code, and he shall approve the permit if the plans and specifications comply with this Code; or he shall disapprove the application if noncompliance with this Code is found. The action of the electrical inspector shall be taken prior to submission of the application to the building commissioner for final approval or disapproval of the application.

(i) If the building commissioner denies a permit under this article, the aggrieved applicant may petition the zoning board of appeals for relief.

(Ord. No. 1689/89, § 1, 2-21-89; Ord. No. 1741/91, § 2, 2-19-91; Ord. No. 1858/96, § 1, 7-16-96; Ord. No. 1909/99, § 1, 3-16-99)

Sec. 3-9. Compliance and enforcement.

(a) If the building commissioner shall find that any sign is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this article, he shall give written notice to the holder of the permit issued pursuant to this article for the sign. If the permittee fails to remove, alter, or repair the sign so as to comply with the standards established by this article within ten (10) days after the notice or if the annual fee is not paid, the sign may be removed or altered to comply with this article by the building commissioner at the expense of the permittee or owner of the property upon which it is located.

(b) The building commissioner shall refuse to issue a permit required by this article to any permittee or owner who refuses to pay costs so assessed.

(c) The building commissioner shall inspect annually, or at such other times as he deems necessary, each sign subject to this article for the purpose of ascertaining whether the sign is secure or insecure, and whether it is in need of removal or repair. The building commissioner may cause any sign which is an immediate peril to person or property to be removed summarily and without notice.

(d) Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which the sign may be found, within ten (10) days after written notification from the building commissioner. Upon failure to comply with the notice within the time specified in the notice, the building commissioner is authorized to cause the removal of the sign, and any expense incident thereto shall be paid by the owner of the building or structure to which the sign is attached.

(e) After the enactment of this article, the commissioner shall, as soon as practicable, survey the city for signs which do not conform to the requirements of this article. Upon determination that a sign is nonconforming, the commissioner shall use reasonable efforts to so notify either personally or in writing the user or owner of the property on which the sign is located of the following:

(1) The classification of a sign as nonconforming and the basis thereof.

(2) Whether the sign is eligible for characterization as legally nonconforming.

Any sign within the city limits on the date of adoption of this article which does not conform with the provisions of this article shall be considered a legal nonconforming

sign, provided that it meets the following requirements:

(1) The sign was covered by a sign permit or variance on the date of adoption of this article if one was required under applicable law; or

(2) If no sign permit was required under applicable laws for the sign in question, the sign was in all respects in compliance with applicable law on the date of the adoption of this article.

(f) Abandonment of legal nonconforming status.

(1) The legal nonconforming status of a sign shall be considered abandoned if:

a. The sign is altered in any way in structure including size, shape, dimension or material.

b. The sign is relocated to a position not in compliance with the requirements of this chapter.

c. The sign is replaced.

d. Five (5) years have elapsed from the adoption of this article.

(2) In the event of subsection (f)(1)(a), (b), (c) or (d), the sign shall be immediately brought into compliance with this article with a new permit secured therefor, or shall be removed. If not removed, such sign shall be deemed to be an abandoned sign and shall be disposed of in accordance with the provisions of section 3-9(a) of this article.

Nothing in this section shall relieve the owner or user of a legal nonconforming sign or owner of the property on which the legal nonconforming sign is located from the provisions of this article regarding safety, maintenance and repair of signs; provided, however, that any repainting, cleaning and any other normal maintenance or repair of the sign or sign structure shall not modify the sign structure in any way.

(g) Any person violating any of the provisions of this article shall be deemed guilty of a violation and, upon conviction thereof, shall be fined not exceeding two hundred fifty dollars ($250.00) or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment. Every day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Ord. No. 1689/89, § 1, 2-21-89)

Sec. 3-10. Severability.

If any part or parts of this article are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this article. The city council hereby declares that it would have passed to local law enacting this article and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, or phrases might be declared invalid.

(Ord. No. 1689/89, § 1, 2-21-89)

ARTICLE II. POSTING BILLS

Sec. 3-11. Prohibition.

No person or persons shall placard with show bills, handbills, posters or any printed or written notice or notices or advertisement of any kind whatsoever or attach anything whatsoever of such character to any tree, pump, hydrant, telegraph, telephone or electric light pole within the city, except legal notices and notices and rules made, adopted or enacted by the city council of said city and posted by order of said council.

(Ord. No. 1689/89, § 1, 2-21-89)

Sec. 3-12. Removal of bills, handbills, posters, etc.

Any person including private citizens may remove and cart away any show bills, handbills, banners, posters or any printed or written notices or advertisements that have been placard posted and/or displayed in violation of this ordinance, except legal notices and notices and rules made, adopted or enacted by the city council and posted by order of said council.

(Ord. No. 1846/95, § 1, 7-18-95)

Sec. 3-13. Penalties for offenses.

Any person violating any of the provisions of this article shall be deemed guilty of a violation and, upon conviction thereof, shall be fined not exceeding two hundred fifty dollars ($250.00) or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment. Every day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Ord. No. 1689/89, § 1, 2-21-89; Ord. No. 1846/95, §§ 1, 2, 7-19-95)

ARTICLE III. YOUTH PROTECTION AGAINST TOBACCO ADVERTISING AND PROMOTION ACT

Sec. 3-14. Definitions.

For the purposes of this article, the following terms shall be defined as follows:

Amusement arcade means any enclosed business establishment, open to the public, whose primary purpose is the operation of coin-operated amusement devices.

Child day care center means (i) any child care arrangement, public, private or parochial child care center, school-age child care program, day nursery school, kindergarten, play school or other similar school or service operating pursuant to authorization, license or permit of the State of New York, County of Nassau or city, (ii) any facility that provides child care services as defined in section 410-p of the New York State social services law, or (iii) any child day care center as defined in section 390 of the New York State social services law. The definition of "child day care center" applies whether or not care is given for compensation but does not include child day care centers located in private dwellings and multiple dwelling units.

Cigarette means any product which consists of (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco or (ii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling is offered for use or purchase by consumers as a cigarette described in (i) of this subdivision.

Cigarette tobacco means any product that consists of loose tobacco and is intended for use by consumers in a cigarette.

Multiple dwelling means any building or structure that may lawfully be occupied as the residence or home of three or more families living independently of each other.

Multiple dwelling unit means any unit of residential accommodation in a multiple dwelling.

Person means any natural person, partnership, co-partnership, firm, company, corporation, limited liability corporation, agency, association, joint stock association or other legal entity.

Playground means any outdoor premises or grounds owned or lawfully operated by or on behalf of, the city, the city school district, or any public, private or parochial school, any child day care center or any youth center, which contains any device, structure or implement, fixed or portable, used or intended to be used by persons under the age of eighteen for recreational or athletic purposes including, but not limited to, play equipment such as a sliding board, swing, jungle gym, sandbox, climbing bar, wading pool, obstacle course, swimming pool, see-saw, baseball diamond, athletic field, ice skating rink or basketball court. This definition does not include the Ocean Beach Park.

Private dwelling means any building or structure or portion thereof that may lawfully be occupied for residential purposes by not more than two (2) families, including the grounds of such building or structure.

School building means any building or structure or any portion thereof, owned,

occupied by, or under the custody or control of any public, private or parochial institution and lawfully used for the primary purpose of providing educational instruction to students at or below the twelfth grade level.

Smokeless tobacco means any product that consists of cut, ground, powdered, or leaf tobacco that is intended to be placed by the consumer in an oral cavity.

Tobacco product means a cigarette, cigar, smokeless tobacco or cigarette tobacco.

Tobacco product advertisement means any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to or identifiable with, those used for any brand of tobacco product, or any combination thereof, the purpose or effect of which is to promote the use or sale of a tobacco product through such means as, but not limited to, the identification of a brand of a tobacco product, a trademark of a tobacco product or a trade name associated exclusively with a tobacco product.

Tobacco product promotion means (i) any item or service marketed, licensed, sold or distributed, whether indoors or outdoors, which is not a tobacco product but which bears the brand of a tobacco product, a trademark of a tobacco product or a trade name associated exclusively with a tobacco product, alone or in conjunction with any written work, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with those used for any brand of a tobacco product, or (ii) any gift or item other than a tobacco product offered or caused to be offered to any person purchasing a tobacco product in consideration of the purchase thereof, or to any person in consideration of furnishing evidence, such as credits, proofs-of-purchase, or coupons, of such purchase; provided, however, that a tobacco product promotion shall not include any gift or item provided through the exchange or redemption through the mail of any such credits, proofs-of-purchase, coupons or other evidence of the purchase of a tobacco product.

Youth center means any building or structure or portion thereof lawfully occupied by any person for the primary purpose of operating an indoor recreational center, (including recreational, cultural, physical fitness or sports program) for persons under the age of eighteen (18) years, and which has been certified as such by the city, County of Nassau or State of New York.

(Ord. No. 1891/98, § 1, 4-21-98)

Sec. 3-15. Tobacco product advertisement restriction.

(a) It shall be unlawful for any person to place, cause to be placed, to maintain or cause to be maintained, a tobacco product advertisement within five hundred (500) feet, in any direction, of any school building, playground, child day care center, amusement arcade or youth center, in any outdoor area including, but not limited to, billboards, roofs and sides of buildings, rolling shutters or gates, any enclosures into which rolling shutters or gates retract, water tanks and towers and free-standing signboards, provided, however, that any tobacco product advertisement on an awning projecting from the outside of a premises where

tobacco products are sold or offered for sale may be retained until one (1) year from the effective date of this law.

(b) It shall be unlawful for any person to place, cause to be placed, to maintain or cause to be maintained, a tobacco product advertisement in the interior of a building or structure which is within five hundred (500) feet, in any direction, of any school building, playground, child day care center, amusement arcade or youth center, when such advertisement is within five (5) feet of any exterior window or any door which is used for entry or egress by the public to the building or structure; provided, however, that tobacco product advertisements may be placed or maintained in the interior of any such premises where such advertisements are (i) parallel to the street and face inward, or (ii) affixed to a wall panel or similar fixture that is perpendicular to the street regardless of whether such advertisements are illuminated or not illuminated.

(c) Nothing in this article shall prevent a person from placing, causing to be placed, maintaining, or causing to be maintained, a single sign, poster, placard or label no larger than six (6) square feet and containing only black text, in any language, not exceeding eight (8) inches in height on a white background stating "TOBACCO PRODUCTS SOLD HERE" or such words translated into any language, within ten (10) feet of an entrance to the premises where tobacco products are sold or offered for sale.

(d) Nothing in this article shall prevent a tobacco product manufacturer, distributor or retailer from placing, causing to be placed, maintaining or causing to be maintained, its corporate or other business name on a building or structure, in any location, where such building or structure or a portion thereof is owned, operated or leased by such building or structure or a portion thereof is owned, operated or leased by such manufacturer, distributor or retailer and that building or structure is the principal place of business of such manufacturer, distributor or retailer in the city; provided, however, that the corporate or other business name of such manufacturer, distributor or retailer is registered or filed in the United States or such manufacturer, distributor or retailer is authorized to do business in any state, and the corporate or business name of such manufacturer, distributor or retailer does not include any brand name or trademark of a tobacco product, alone or in conjunction with any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with those used for any brand of a tobacco product.

(e) This Article shall not apply to any tobacco product advertisement on a motor vehicle. Nothing in this subdivision shall be construed to authorize the placement of a tobacco product advertisement in a location where such placement is otherwise prohibited by the rules, ordinances or laws of the city, County of Nassau or State of New York.

(Ord. No. 1891/98, § 1, 4-21-98)

Sec. 3-16. Noncompliant advertisements to be removed.

The person, owner, operator or lessee of any location or premises where a tobacco product advertisement is prohibited or restricted pursuant to the requirement of

this article shall have thirty (30) days from the effective date of this ordinance to remove any noncompliant tobacco product advertisements, except as set forth in section 3-15(a) hereof.

(Ord. No. 1891/98, § 1, 4-21-98)

Sec. 3-17. Tobacco product promotion restriction.

(a) It shall be unlawful for any person to offer or cause to be offered a tobacco product promotion, as defined in section 3-14 of this code, to any person younger than eighteen (18) years of age.

(b) Any person offering or causing to be offered a tobacco product promotion shall verify through a driver's license or other photographic identification card issued by a government entity or educational institution that a person to whom a tobacco product promotion has been offered is a least eighteen (18) years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five (25) years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the offering of a tobacco product promotion to an individual under eighteen (18) years of age.

(Ord. No. 1891/98, § 1, 4-21-98)

Sec. 3-18. Sponsorship of and at events.

Nothing in this article shall prevent a tobacco products manufacturer, distributor, or retailer who sponsors, in whole or in part, any athletic, musical, artistic or cultural event, or team or entry in a competition or exhibition in any location from displaying or causing to be displayed the corporate or other business name of such sponsor; provided, however, that the corporate or other business name of such sponsor is registered or filed in the United States or such sponsor authorized to do business in any state, and the corporate or other business name of such sponsor does not include any brand name or trademark of a tobacco product, alone or in conjunction with any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia or product identification identical or similar to, or identifiable with, those used for any brand of a tobacco product.

(Ord. No. 1891/98, § 1, 4-21-98)

Sec. 3-19. Enforcement.

The requirements established by this article shall be administered and enforced jointly by the police department, building department and such other employees and/or officials authorized by the city manager. Violation of any provision of this article shall be cause for a ticket/information to be issued.

(Ord. No. 1891/98, § 1, 4-21-98)

Sec. 3-20. Penalties.

(a) Any person who violates any provision of this article shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to penalties in the

following manner:

(1) Upon a first conviction, by a fine not less than one hundred dollars ($100.00) and not more than two hundred fifty dollars ($250.00) dollars or by imprisonment for a period not to exceed seven (7) days or by both such fine and imprisonment.

(2) Upon a second conviction, by a fine not less than two hundred fifty dollars ($250.00) and not more than one thousand dollars ($1,000.00) or by imprisonment for a period not to exceed ten (10) days or by both such fine and imprisonment.

(3) Upon a third or subsequent conviction, by a fine not less than five hundred dollars ($500.00) and not more than three thousand dollars ($3,000.00) or by imprisonment for a period not to exceed fifteen (15) days or by both such fine and imprisonment.

(4) If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense.

(b) In addition to the penalties provided for in section 3-20(a), where a person is found guilty of a third or subsequent violation, the mercantile license issued to such person shall be suspended and/or revoked in accordance with the requirements of Chapter 12 of this Code.

(Ord. No. 1891/98, § 1, 4-21-98)

Sec. 3-20. Penalties.

Chapter 4 AIR POLLUTION

Sec. 4-1. Definitions.

For the purposes of this chapter the following terms shall have the meanings ascribed to them in this section:

(a) *Dense smoke* shall mean that smoke which has a density of No. 2 or greater established by the Ringelmann Chart, hereinafter referred to and adopted.

(b) *Cinders, dust, fly ash, noxious acids, fumes* and *gases* shall be considered to be all matter other than dense smoke, including coke, cinders, dust and soot formed as a result of the combustion of fuel, which are carried in the gas stream so as to reach the external air and which have not been completely consumed by the combustion process.

(c) *Ringelmann Chart* shall be that standard published by the United States Bureau of Mines to determine the density of smoke, as hereinafter set forth in full in section 4-14.

(d) *Bureau* shall mean the Bureau of Smoke Prevention of the City of Long Beach hereinafter created.

(e) *Superintendent* shall mean the building commissioner of the City of Long Beach.

(f) *Board* shall mean the board of appeals hereinafter created.

(g) *Person, firm or corporation* shall mean any individual, partnership, firm, association, company, corporation, syndicate or other groups or groups of organized or unorganized individuals who may employ, own, use or operate any fuel-consuming device.

(Code 1957, § 7-401)

Sec. 4-2. Emission of dense smoke prohibited.

It shall be unlawful for any person, firm or corporation to permit the emission of any smoke from any source whatever of a density equal to or greater than that density described as No. 2 on the Ringelmann Chart, published by the United States Bureau of Mines, the standards of which are hereby fully adopted by the enactment of this chapter and set forth in full in section 4-14. The emission of such dense smoke is declared to be a public nuisance and may be summarily abated by the building commissioner, or by anyone whom he may designate for such purpose; provided, however, that this section shall not be applicable to the circumstances set forth in section 4-3.

(Code 1957, § 7-402)

Sec. 4-3. Exceptions to chapter.

The provisions of section 4-2 shall not be applicable:

(a) To private residences in which no more than two (2) families are or can be housed. To all larger dwellings, of whatever type, however, this chapter shall be fully effective and applicable.

(b) When a fire box, furnace, boiler, locomotive or other fuel-consuming device is being cleaned out and a new fire is being built therein, in which event a smoke of a density greater than that described as No. 2 of the Ringelmann Chart shall be permitted for a period of not to exceed ten (10) minutes in any single period of sixty (60) minutes.

(Code 1957, § 7-403)

Sec. 4-4. Escape of soot, cinders, noxious acids, fumes and gases prohibited.

It shall be unlawful for any person, firm or corporation to permit or cause the escape of such quantities of soot, cinders, noxious acids, fumes and gases in such place or manner as to be detrimental to any person or to the public or to endanger the health, comfort and safety of any such person or of the public, or in such manner as to cause or have a tendency to cause injury or damage to property or business. The escape of such matter is declared to be a public nuisance and may be summarily abated by the building commissioner, or by anyone whom he may designate for such purpose.

(Code 1957, § 7-404)

Sec. 4-5. Bureau of smoke prevention created.

For the purposes of enforcement of this chapter there is hereby created the bureau of smoke prevention within the building department of the City of Long Beach which shall be under the direction of the building commissioner.

(Code 1957, § 7-405)

Sec. 4-6. Duties of building commissioner.

The duties of the building commissioner shall include:

(a) To investigate all complaints of violations of this chapter, and to institute necessary proceedings in case of violations;

(b) To investigate and make recommendations from time to time to the city council with respect to needed revisions in this or any other matter pertaining to smoke control and air pollution;

(c) To make yearly inspections of all fuel-consuming devices within the City of Long Beach to determine whether compliance is being had with the provisions of this chapter as more specifically required in section 4-9 hereof;

(d) To prepare and disseminate appropriate educational and informative literature to the public for the purpose of advising them of the purposes and necessity for the smoke prevention campaign;

(e) To cooperate fully with all civic or other organizations which may be or

become interested in the smoke prevention campaign;

(f) To promulgate and publish rules and regulations under which this chapter will be administered, providing in detail and with clarity the necessary information by which the public is to be guided. Copies of the Ringelmann Chart shall be made available to the public without charge. The rules and regulations herein prescribed to be adopted shall be prepared only after a thorough consideration of the air pollution problem as it exists in the City of Long Beach;

(g) To issue all permits required under the terms of this chapter; and to notify all parties concerned of any decision he may render and to provide such parties with an opportunity to have a full hearing as hereinafter set forth in section 4-10;

(h) To do any and all other acts which may be necessary for the successful prosecution of the purposes of this chapter, and such other acts as may be specifically enumerated therein as his duties.

(Code 1957, § 7-406)

Sec. 4-7. Use of smokeless solid fuel.

It shall be unlawful for any person, firm or corporation to use or consume in any solid fuel-burning equipment any solid fuel which does not meet the standards of a smokeless solid fuel as set forth in this chapter. Smokeless fuel for the purpose of the enforcement of this chapter shall be considered a fuel, the volatile content of which is twenty (20) per cent or less on a dry basis; provided, however, that if a fuel contains volatile matter in excess of twenty (20) per cent on a dry basis, it shall be acceptable under the terms of this chapter provided that it meets the same standards in regard to smoke production as that of a fuel containing less than twenty (20) per cent volatile matter on a dry basis, and subject to the following conditions in order to ascertain whether or not such standards are met:

(a) Complete plans and specifications for the use of such fuel must be submitted to the building commissioner, together with any additional information he may reasonably require regarding the product;

(b) An adequate supply of the finished product must be made available to the building commissioner to conduct whatever tests he deems necessary to establish its value as a smokeless solid fuel;

(c) Any person, firm or corporation whose product is submitted to such tests must pay in advance all expenses necessary to the attendant tests;

(d) The building commissioner shall be authorized to publish a list of brands or trade names of smokeless solid fuels as defined under this section, and to compile and publish from time to time statistics in reference to the supply, prevailing prices and other pertinent facts for the guidance of the public;

Provided, however, that a solid fuel having a volatile content in excess of twenty (20) per cent on a dry basis but not meeting the conditions herein above enumerated can be used or consumed upon issuance of a permit of approval by the building commissioner only in heating devices equipped with appliances which are so

constructed as to insure the complete combustion of all fuel used and further designed to prevent any and all air pollution prohibited by this chapter, and which devices have been previously approved by the building commissioner.

(Code 1957, § 7-407)

Sec. 4-8. Construction, reconstruction, addition, alteration and repair of fuel-consuming devices.

No new fuel-burning plants nor reconstruction, repair, addition or alteration to any existing fuel-burning plants for producing power and heat, or either of them, nor refuse-burning equipment, nor any stack or furnace connected with such fuel or refuse-burning equipment, shall be installed, erected, reconstructed, repaired, added to or altered in the City of Long Beach until plans and specifications of the same have been filed by the owner, contractor, installer or other person, in the office of the building commissioner as being so designed that the same can be managed and operated to conform to the provisions of this chapter, and a permit issued by the building commissioner for such installation, erection, reconstruction, repair, addition to or alteration. The building commissioner shall, by appropriate rules and regulations, require such information on the plans and specifications of the foregoing as will enable him to make a determination of whether such construction, reconstruction, repair, addition or alteration work will conform to the requirements of this chapter or be in violation hereof. If it appears that such proposed work will not be inconsistent with the purposes of this chapter, the building commissioner shall issue the permit, otherwise it shall be denied. Compliance with this chapter shall not be deemed compliance with other requirements with respect to the construction or repair of buildings.

(Code 1957, § 7-408)

Sec. 4-9. Annual inspections.

It shall be the duty of the building commissioner to make an annual inspection of each fuel-consuming device in operation within the city to which this chapter applies and to issue a certificate of inspection to the owner of each such device so inspected providing that it meets the standards established in this chapter. Such certificate shall be authorization for the continued operation of fuel-consuming devices. Failure to possess a proper certificate of inspection shall be considered to be a violation of this chapter; provided, however, that all fuel-consuming devices not inspected at the time of the passage of this chapter are authorized to continue in operation until such time as the building commissioner may make his annual inspection of such devices.

(Code 1957, § 7-409)

Sec. 4-10. Hearings by building commissioner.

Any person aggrieved by any ruling rendered by the building commissioner shall have the right to require the said commissioner to conduct a full and complete hearing prior to actual and final decision. Such hearing shall afford the person aggrieved with a full opportunity to present any evidence which he may desire to support his position. It shall be the duty of the said commissioner to promptly notify all parties concerned of his ruling in such hearings.

(Code 1957, § 7-410)

Sec. 4-11. Board of appeals; appointment and duties.

The city manager of the City of Long Beach shall appoint a board of appeals to be composed of at least three (3) members who will serve as a body to which appeals may be made from the decisions of the building commissioner with respect to smoke control. The members of this board shall serve for a period of one year, without remuneration. They shall be citizens and taxpayers of the city, and shall not have any interest in the sale or control of any smoke prevention equipment or apparatus which might be used effectively to reduce the emission of dense smoke. The board of appeals may prepare such rules and regulations as may be deemed necessary for them in the discharge of their duties. They shall decide all appeals properly before them, and shall either affirm, modify or overrule the decision of the building commissioner which they may be called upon to review. On all appeals taken to the board, appropriate hearings shall be held after due notice thereof to the parties concerned. All pertinent papers in the files of the bureau shall be made available to the board in each case.

(Code 1957, § 7-411)

Sec. 4-12. Interference with performance of duty of building commissioner.

Any person, firm or corporation interfering in any manner or impeding the performance of duty of the building commissioner shall be deemed guilty of a misdemeanor and shall be subject to the penalties hereinafter provided for the violation of the provisions of this chapter. This section shall likewise apply to the performance of duty of employees and representatives of the building commissioner.

(Code 1957, § 7-412)

Sec. 4-13. Grace period.

Whenever it has been adequately demonstrated to the building commissioner that compliance with the terms of this chapter cannot be effectively and immediately made, the building commissioner shall have the authority to grant a temporary permit for the continued operation of such noncomplying equipment, but only in the event that the party has taken all necessary steps to secure compliance with the chapter. Such temporary permit shall be issued for no longer a period than six (6) months, at the expiration of which period of time, the party holding such permit, if he has not complied with the provisions of this chapter, shall be deemed to be in violation thereof. The fees established in section 4-15 shall not be applicable to the permits required by this section.

(Code 1957, § 7-413)

Sec. 4-14. The Ringelmann Chart.

The standard by which the density of smoke is to be measured will be the Ringelmann Chart, published by the United States Bureau of Mines. The chart is as follows:

No. 0-- 0% black, 100% white.

No. 1-- 20% black, 80% white.

No. 2-- 40% black, 60% white.

No. 3-- 60% black, 40% white.

No. 4-- 80% black, 20% white.

No. 5--100% black, 0% white.

Use of the chart will be made by placing it at such distance from the observer so that the squares appear as even shades of coloring, or when no white spaces between the lines are visible. Comparison of the smoke under observation with the various shades of the chart will then indicate the density of the smoke. Observation distances shall be not less than one hundred (100) feet nor more than one-quarter (1/4) mile from the smoke observed.

(Code 1957, § 7-414)

Sec. 4-15. Fees.

The fees to be charged by the building commissioner for the various permits required herein shall be three dollars ($3.00) each, with the exception of annual inspection fees, which shall be, for the initial inspection, five dollars ($5.00), and for all subsequent inspections, three dollars ($3.00).

(Code 1957, § 7-415)

Sec. 4-16. Penalties.

Any person, firm or corporation violating the provisions of this chapter shall be subject to a fine not to exceed two hundred fifty dollars ($250.00) for each violation thereof, or by imprisonment not to exceed fifteen (15) days, or both. Each day that any violation of this chapter exists, shall be deemed to be a separate offense for the purposes of this chapter. Any abatement hereinbefore provided shall be in addition to any penalties prescribed in this section.

(Code 1957, § 7-416; Ord. No. 1133/72, § 1, 7-11-72)

Chapter 5 ANIMALS AND FOWL*

***Editor's note:** Section 1 of Ord. No. 1446/81, adopted April 7, 1981, repealed Ch. 5, §§ 5-1, 5-2, 5-16--5-22, relative to animals and fowl, and in lieu thereof added a new Ch. 5, §§ 5-1, 5-2, 5-11, 5-12, 5-21, 5-22, 5-31--5-34, 5-41--5-46, 5-51 and 5-52, concerning the same subject matter. The former provisions derived from Code 1957, §§ 2-413, 7-501--7-506 and the following legislation:

Ord. No.	Section	Date	Ord. No.	Section	Date
856	1	9-12-67	1303/75	1	12-16-75
1042/71	1	5-4-71	1337/77	1	4-12-77
1112/72	1	1-11-72	1394/79	1	6-5-79
1119/72	1	4-4-72			

Art. I. In General, §§ 5-1--5-10
Art. II. Animal Control Department, §§ 5-11--5-20
Art. III. Dogs, §§ 5-11--5-50
Div. 1. Generally, §§ 5-21--5-30
Div. 2. Licensing and Identification, §§ 5-31--5-40
Div. 3. Dogs at Large; Seizure; Impoundment; Redemption, §§ 5-41--5-50
Art. IV. Other Services, §§ 5-51, 5-52

ARTICLE I. IN GENERAL

Sec. 5-1. Purpose.

The purpose of this chapter is to provide for the licensing and identification of dogs, the control and protection of the dog population, the protection of persons and property from dog attack and damage, and the protection of cats and other animals in the City of Long Beach.

(Ord. No. 1446/81, § 1, 4-7-81)

Sec. 5-2. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them:

Abandoned means any dog, cat, or other animal confined for more than twelve (12) successive hours in any house, building, cage, pen or other confined area without the owner or some other person in attendance.

Adoption means the delivery to any individual eighteen (18) years of age or older, for the purpose of owning or harboring as a pet, any unredeemed dog, cat, or other animal impounded pursuant to the provisions of this chapter or the Agriculture and Markets Law, or otherwise delivered to the animal shelter for adoption purposes.

Animal control officer means any individual employed by the City of Long Beach

to assist in the enforcement of this chapter and the Agriculture and Markets Law, or any authorized officer, agent, or employee of any incorporated humane society or similar animal protection association under contract with the County of Nassau to assist in the enforcement of the Agriculture and Markets Law.

Animal shelter means the animal shelter of the City of Long Beach, or any other facility contracted by the City for such services.

At large means off the premises of the owner, and not under the control of the owner or other person (a member of his or her immediate family), either by leash, cord or chain. When an animal is in a public hallway, public area, lobby or elevator of a multiple dwelling, it shall be deemed to be off the premises of the owner.

Cat means both male and female members of the species *felis familiaris.*

Clerk means the city clerk of the City of Long Beach.

Commissioner means the humane commissioner of the City of Long Beach.

Dog means both male and female members of the species *canis familiaris.*

Euthanize means to bring about death by a humane method.

Harbor means to provide food or shelter to dog, cat or other animal.

Identification tag means a tag issued by the City Clerk which sets forth the official identification number together with the name of the City and State, the telephone number of the City Clerk, and any other information deemed necessary by the City Clerk.

Identified dog means any dog carrying an identification tag as provided in Section 5-33 of this chapter.

Official identification number means a series or combination of letters, numbers or symbols approved and furnished by the City Clerk.

Owner means any person who harbors or keeps any dog, cat or other animal.

Owner of record means the person in whose name any dog was last licensed pursuant to this chapter, except that if any license is issued on application of a person under eighteen (18) years of age, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the provisions of Section 113 of Article 7 of the Agriculture and Markets Law, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under eighteen (18) years of age, the owner of record shall be deemed to be the parent or guardian of such person.

Person means any individual, corporation, partnership, association, or other organized group of persons, municipality, or other legal entity.

Vicious dogs means:

(1) Any dog owned, harbored or trained primarily or in part for the purpose of dog fighting;

(2) Any dog owned, harbored or trained primarily or in part for the purpose of

attacking a human being or domestic animal upon command; or

(3) Any dog used in conjunction with or for the purpose, whether in whole or in part, of aiding, abetting, or conducting any illegal activity or committing any crime within the city.

(Ord. No. 1446/81, § 1, 4-7-81; Ord. No. 1851/96, § 1, 5-21-96; Ord. No. 2057/10, 11/16/2010)

Secs. 5-3--5-10. Reserved.

Sec. 5-2. Definitions.

ARTICLE II. ANIMAL CONTROL DEPARTMENT

Sec. 5-11. Created; composition.

There is hereby created the animal control unit, which shall consist of the humane commissioner, one or more animal control officers, and such other personnel as may be authorized by the city council.

(Ord. No. 1446/81, § 1, 4-7-81)

Sec. 5-12. Office of the humane commissioner created; appointment; removal; compensation.

There is hereby created the office of humane commissioner who shall be appointed by the city manager. The commissioner may be removed by the city manager at any time without cause assigned. The compensation of the commissioner shall be fixed by the city council.

(Ord. No. 1446/81, § 1, 4-7-81)

Secs. 5-13--5-20. Reserved.

ARTICLE III. DOGS

DIVISION 1. GENERALLY

Sec. 5-21. Nuisances by dogs.

No person who owns, harbors or is in charge or control of any dog shall cause or allow such dog to urinate, defecate or commit any other nuisance upon any public street, beach, thoroughfare or sidewalk, upon any mall, public square or in any public park, or upon any place used in common by the public, or in any place where people congregate, or on any private property without permission of the owner thereof; except that a person who owns, harbors or is in charge or control of any dog may cause or allow such dog to urinate and/or defecate upon the vehicular portion of any public street, provided that said person picks up, removes and disposes of any defecation in a sanitary receptacle immediately after it is so deposited.

(Ord. No. 1446/81, § 1, 4-7-81)

Sec. 5-22. Dogs on city-owned lands.

No person who owns, harbors or is in charge or control of any dog shall permit or allow such dog to enter or be upon any city-owned mall, park, playground, square, plaza or grassplot unless such area has been designated by the City Manager as a permitted or allowable dog area.

(Ord. No. 1660/88, § 1, 4-19-88; Ord. No. 2060/11, § 1, 7/17/2011)

Editor's note: Ord. No. 1660/88, § 1, adopted April 19, 1988, repealed former § 5-22 in its entirety, and enacted new provisions therefor. Former § 5-22 was concerned with penalty provisions, and derived from Ord. No. 1446/81, § 1, adopted April 7, 1981.

Sec. 5-23. Dogs not permitted in the park.

No person owning or being the custodian or having control of any dog shall cause or permit such dog to enter in or upon the Ocean Beach Park or upon the boardwalk.

(Ord. No. 1718-90, § 1, 4-3-90)

Editor's note: Ord. No. 1718-90, § 1, adopted April 3, 1990, repealed former § 5-23 in its entirety and enacted new provisions therefor. Former § 5-23 was concerned with penalties, and derived from Ord. No. 1660/88, § 2, adopted April 19, 1988.

Sec. 5-24. Unattended animals in vehicles.

(a) It shall be a violation of this section for any person to place or confine an animal or permit such animal to be placed or confined or remain in an unattended vehicle without sufficient ventilation or under other conditions or for such a period of time as may endanger the health or well-being of such animal due to heat, lack of water or such other circumstances as reasonably may be expected to cause suffering, disability or death.

(b) Any police officer, peace officer, public safety officer of the city or animal control officer of the city, who finds an animal in a motor vehicle in violation of subsection (a) hereof, may enter a motor vehicle without civil or criminal liability, to remove the animal. The person removing the animal shall take said animal or cause said animal to be delivered to the animal shelter or other place of safekeeping in the city.

(c) In the event the owner or custodian of said animal cannot otherwise be located, the person shall leave in a prominent place on or in the vehicle a written notice bearing his name and department and the address where the animal may be claimed by the owner thereof. The animal shelter having custody of the animal shall make reasonable efforts to contact the owner and give notice that the animal is in its custody.

(Ord. No. 1987/04, § 1, 6-1-04)

Secs. 5-25--5-30. Reserved.

DIVISION 2. LICENSING AND IDENTIFICATION

Sec. 5-31. Dog license; application; fees.

(a) The owner of any dog, four (4) months of age or older unless otherwise exempted, is required to make regular applications for a dog license to the City Clerk. The owner of each dog required to be licensed shall obtain, complete and return to the City Clerk a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the City Clerk. Each license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life in which case vaccination shall not be required.

(b) Each license issued shall be valid for a period of one, two or three years and shall not be transferable. The term of the license may not exceed the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed. All licenses will expire of December 31st of the period for which they are issued. In the event an applicant for a license or renewal presents a statement certified by a licensed veterinarian, in lieu of a rabies certificate, then the license or renewal may only be issued for one (1) year.

(c) The annual fee for each dog license issued shall be:

(1) Nine dollars ($9.00) for each spayed or neutered dog. In the case of an altered dog, every application shall be accompanied by a certificate signed by a licensed veterinarian showing that the dog has been spayed or neutered, except that such certificate of affidavit is not required if same is already on file with the City Clerk. In lieu of the spay or neuter certificate an owner may present a statement certified by a licensed veterinarian stating that he or she has examined the dog and found that because of old age or other reason, the life of the dog would be

endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as an altered dog.

(2) Fifteen dollars ($15.00) for each unsprayed or unneutered dog.

(3) In addition to the fees set forth above, there shall be imposed a surcharge of one dollar ($1.00) if the dog to be licensed is altered, or a fee of three dollars ($3.00) if the dog sought to be licensed is unaltered. This surcharge will be paid over to the agency designated pursuant to Article 7 of the Agriculture and Markets Law to be used for animal population control efforts.

(4) The fee for a license for more than one year, up to two years, will be doubled.

(5) The fee for a license from two to three years will be three times the yearly fee.

(d) Exempt from payment of the license fee are applications submitted for a dog license for any guide, hearing, service, war, working search, detection or police dog or any other dog exempted by Federal or State law. The person owning, possessing or harboring such a
dog bears the burden of demonstrating to the satisfaction of the City Clerk that the dog is a service dog and exempt from the licensing fee.

(e) All license fees shall be non-refundable.

(f) Any person seeking to obtain a license for a vicious dog must meet the additional requirements as set forth in Section 5-34 of this chapter.

(Ord. No. 1446/81, § 1, 4-7-81; Ord. No. 1851/96, § 2, 5-21-96; Ord. No. 2057/10, 11/16/2010)

Sec. 5-32. License required.

(a) It shall be unlawful for any person to own, possess, harbor or keep a dog which is not licensed. The fact that a dog is without a tag attached to the collar, as provided in Section 5-33 of this chapter, shall be presumptive evidence that such dog is unlicensed.

(b) Any dog harbored within the City of Long Beach licensed in another jurisdiction, shall for a period of thirty (30) days be exempt from the licensing and identification provisions of this chapter.

(Ord. No. 1446/81, § 1, 4-7-81; Ord. No. 1851/96, § 3, 5-21-96; Ord. No. 2057/10, 11/16/2010)

Sec. 5-33. Identification tags required.

(a) It shall be unlawful for any person to own, harbor or keep a dog which has not been identified.

(b) It shall be unlawful for any person who owns, harbors or keeps a dog to permit such dog off the premises of such person without an identification tag attached to the dog's collar.

(c) It shall be unlawful for any person to knowingly affix any false or improper

identification to any dog.

(d) Tags issued by the City shall be inscribed with “City of Long Beach, New York State”, a current contact telephone number for the Office of the City Clerk, and a unique identification number for each dog licensed by the City.

(Ord. No. 1446/81, § 1, 4-7-81; Ord. No. 2057/10, 11/16/2010)

Sec. 5-34. Vicious dogs.

(a) No owner of a vicious dog shall be allowed to obtain a license for said dog unless the owner produces proof that he or she has obtained liability insurance in the amount of at least one hundred thousand dollars ($100,000.00) covering any damage or injury which may be caused by such dog during the twelve-month period for which the license is sought.

(b) The owner of a vicious dog shall maintain liability insurance in full force and effect at all times as required by subsection (a) of this section, unless he shall cease to own, keep or harbor the dog prior to the expiration of such license. The failure of an owner of a vicious dog to obtain or maintain the requisite insurance as provided in this section shall be a violation punishable by a mandatory fine of not less than one hundred dollars ($100.00) for a first offense, two hundred dollars ($200.00) for a second offense and three hundred dollars ($300.00) for a third or subsequent offense within five (5) years.

(c) No individual may own or obtain a license for a vicious dog unless the individual is at least twenty-one (21) years of age. An applicant for a license for a vicious dog must present adequate proof of age to the licensing authority.

(d) With respect to a vicious dog which was licensed as of the effective date of this section, this section shall apply as of the expiration date of such license and any owner seeking to renew such license shall have to satisfy the requirements of this section.

(Ord. No. 1851/96, § 4, 5-21-96)

Sec. 5-35. Notification of Change of Ownership; Lost Dogs; Death of Dog.

1. In the event of a change in the ownership or address of any dog, the owner of record shall within ten days of such change, file with the City Clerk a written report of such change.

2. If any dog which has been licensed pursuant to this chapter is lost or stolen, the owner of record shall, within ten days after the discovery of such event, file with the City Clerk a written report of such loss or theft.

3. In the case of a dog’s death, the owner of record shall notify the City Clerk of the dog’s death either before or upon receipt of a renewal notice from the City Clerk.

(Ord. No. 2057/10, 11/16/2010)

Secs. 5-36--5-40. Reserved.

DIVISION 3. DOGS AT LARGE; SEIZURE; IMPOUNDMENT; REDEMPTION

Sec. 5-41. Running at large.

No owner or keeper of any dog shall permit it to run at large, whether the dog is licensed or unlicensed, and any such dog found at large may be impounded.

(Ord. No. 1446/81, § 1, 4-7-81; Ord. No. 1718/90, § 3, 4-3-90)

Sec. 5-42. Reserved.

Editor's note: Ord. No. 1718-90, § 4, adopted April 3, 1990, repealed § 5-42 in its entirety. Former § 5-42 was concerned with penalties, and derived from Ord. No. 1446/81, § 1, adopted April 7, 1981.

Sec. 5-43. Seizure of dogs; impoundment.

(a) It shall be the duty of the humane commissioner, any police officer, or any animal control officer or any peace officer in the employ of or under contract to the City of Long Beach or the County of Nassau to apprehend and seize:

(1) Any dog found running at large contrary to the provisions of this article; and

(2) Any dog which is not licensed, contrary to the requirements of this article and Article 7 of the Agriculture and Markets Law, whether on or off the owner's premises; and

(3) Any dog which is not identified, contrary to the requirements of this article and Article 7 of the Agriculture and Markets Law, which is not on the owner's premises; and

(4) Any dog deemed to be abandoned within the meaning of this chapter.

(b) It shall be the duty of the humane commissioner, any animal control officer, any police officer or any peace officer in the employ or under contract to the City of Long Beach or County of Nassau to impound in the animal shelter or other suitable place each dog seized in accordance with the provisions of this article.

(c) Upon receiving any dog seized in accordance with the provisions of this article at the animal shelter, it shall be the duty of the humane commissioner and any animal control officer to:

(1) Make and maintain a complete record of such seizure and subsequent disposition of any dog. Such record shall include but not be limited to a description of the dog (including its breed, color and sex), the date and hour of seizure, the official identification number of such dog, if any, the location where seized, the reason for seizure, and the owner's name and address, if known, and

(2) Properly shelter, feed and water the dog for the redemption period as hereinafter provided.

(Ord. No. 1446/81, § 1, 4-7-81)

Sec. 5-44. Notice of seizure; identified and unidentified dogs; redemption periods.

(a) Not later than five (5) days after the impounding, pursuant to this article, of any dog which bears an identification tag as required by Article 7 of the Agriculture and Markets Law, the owner of record shall be notified personally or by certified mail, return receipt requested, of the fact of seizure and the procedure for redemption. If notification is personally given, such dog shall be held for a period of seven (7) days after day of notice, during which period the dog may be redeemed by the owner. If such notification is made by certified mail, such dog shall be held for a period of nine (9) days from the date of mailing, during which period the dog may be redeemed by the owner. In either case, the owner may redeem such dog upon payment of the redemption fees prescribed by section 5-45 of this article and by producing proof that the dog is licensed.

(b) Each dog which does not bear an identification tag, whether licensed or not licensed, shall be held for a period of five (5) days from the day of seizure, during which period the dog may be redeemed by the owner provided that such owner produces proof that the dog has been licensed and has been identified pursuant to the provisions of this article and Article 7 of the Agriculture and Markets Law and further provided that the owner pay the redemption fees prescribed by section 5-45 of this article.

(Ord. No. 1446/81, § 1, 4-7-81)

Sec. 5-45. Redemption fees.

The following fees shall be paid by the owner to the humane commissioner, and animal control officer, or the city cashier, in order to redeem any dog which has been seized and impounded pursuant to this article:

(a) *Impoundment fees.*

(1) For the first impoundment of any dog owned by a person, twenty dollars ($20.00) for the first twenty-four (24) hours or part thereof from such impoundment and five dollars ($5.00) for each additional twenty-four (24) hours or part thereof.

(2) For the second impoundment within twelve (12) months of the first impoundment of any dog owned by that person, forty five dollars ($45.00) for the first twenty-four (24) hours or part thereof from such impoundment and five dollars ($5.00) for each additional twenty-four (24) hours or part thereof.

(3) For the third impoundment within twelve (12) months of the first impoundment of any dog owned by that person, fifty-five dollars ($55.00) for the first twenty-four (24) hours or part thereof from such impoundment and five dollars ($5.00) for each additional twenty-four (24) hours or part thereof.

(4) For the fourth and any subsequent impoundments within twelve (12) months of the first impoundment of any dog owned by that person, seventy five dollars ($75.00) for the first twenty-four (24) hours or part thereof from such impoundment and five dollars

($5.00) for each additional twenty-four (24) hours or part thereof.

(b) *Medical fees.* In the event any dog seized and/or impounded pursuant to this article requires medical treatment or care, in order to redeem such dog, the owner is required to pay any and all costs incurred by the city by reason of rendering such medical treatment or care to the dog, in addition to the impoundment fee described in subdivision (a) of this section.

(c) *Ambulance fees.* In the event any dog seized and/or impounded pursuant to this article requires transportation to a veterinarian or animal hospital for the purpose of rendering medical treatment or care for the dog, the owner is required to pay the following ambulance fees in addition to the impoundment and medical fees described in subdivisions (a) and (b) of this section:

(1) Thirty-five dollars ($30.00) if transported between the hours of 7:00 a.m. and 3:00 p.m., Monday through Friday, or between the hours of 8:00 a.m. and 4:00 p.m., Saturday and Sunday;

(2) Fifty-five dollars ($55.00) if transported at any other hours.

For the purposes of this subdivision, the hour at which the dog is transported shall be deemed the hour at which the dog is seized or the hour at which the ambulance leaves the veterinarian or the animal hospital, with or without the dog, whichever incurs the greater ambulance fee.

(Ord. No. 1446/81, § 1, 4-7-81; Ord. No. 1470/82, § 1, 4-20-82; Ord. No. 1986/04, § 1, 5-18-04; Ord. No. 3007/16, § 1, 5/24/2016)

Sec. 5-46. Forfeiture of title to any dog by owner.

(a) An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period described in section 5-44 of this article. Such unredeemed dog shall then be made available for adoption or euthanized, in the discretion of the commissioner or the animal control officer, designated in writing by the commissioner for that purpose.

(b) No such dog shall be delivered for adoption unless it has been licensed pursuant to the provisions of this chapter prior to its release from the custody of the animal shelter or other suitable place wherein it has been impounded.

(c) No liability in damages or otherwise shall be incurred by the city or any person involved in or by reason of the seizure, euthanization or adoption of any dog pursuant to the provisions of this chapter.

(d) Nothing contained in this article shall prevent the City of Long Beach from commencing a civil action against the owner for the impoundment fees, ambulance fees, if any, medical costs, if any, and/or euthanization costs, if any, incurred by the City of Long Beach following the seizure of any dog pursuant to this article.

(Ord. No. 1446/81, § 1, 4-7-81; Ord. No. 2057/10, 11/16/2010)

Sec. 5-47. Penalty for violation of Article III.

A violation of any of the provisions of Divisions 1, 2 or 3 of Article III shall be punishable by a mandatory minimum fine of fifty dollars ($50.00) and a maximum fine of two hundred fifty dollars ($250.00), or by imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment, for each violation of this Article III, except that any violation of Section 5-21 (nuisances by dogs) shall be punishable by a mandatory minimum fine of one hundred dollars ($100.00) and a maximum fine of five hundred dollars ($500.00) or by imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

(Ord. No. 1718-90, § 5, 4-3-90; Ord. No. 1991/04, § 1, 9-7-04)

Secs. 5-48--5-50. Reserved.

ARTICLE IV. OTHER SERVICES

Sec. 5-51. Adoption; fees.

(a) Any dog which is available for adoption may be delivered to a person for adoption upon compliance with subsection 5-46(b) of this chapter and payment of the adoption fee of thirty dollars ($30.00) to the humane commissioner, animal control officer or city cashier.

(b) Any cat or other animal, except a dog, which is available for adoption may be delivered to a person for adoption upon payment of the adoption fee of thirty dollars ($30.00) to the humane commissioner, animal control officer or city cashier.

(c) A person adopting any animal available for adoption which has been spayed or neutered by the animal shelter, shall be required to pay the following fee in addition to the adoption fee described in the foregoing paragraphs of this section:

Dogs:

Male . . . $40.00

Female . . . 50.00

Cats:

Male . . . $30.00

Female . . . 40.00

(d) The humane commissioner or animal control officer may, in his or her discretion, accept delivery of a dog, cat, or other animal to the animal shelter for the purpose of placing said animal for adoption upon payment by the person offering such animal to be placed for adoption of the following fees to the humane commissioner, animal control officer or city cashier:

Dog . . . $40.00

Cat or other animal . . . 40.00

(e) No dog which has been licensed pursuant to this chapter shall be accepted by the humane commissioner or animal control officer for the purposes of adoption unless the owner of record completes a written report of the change in the ownership of such dog as required by section 112 of the New York State Agriculture and Markets Law.

(f) A person adopting a dog or cat that has not been spayed or neutered will be charged a refundable fee of forty dollars ($40.00). Such fee will be refunded by the city upon proof that said animal has been spayed or neutered.

(Ord. No. 1446/81, § 1, 4-7-81; Ord. No. 1986/04, § 1, 5-18-04; Ord. No. 2057/10, 11/16/2010; Ord. No. 3007/16, § 1, 5/24/2016)

Sec. 5-52. Euthanasia; fees.

(a) The humane commissioner or animal control officer may, in his or her discretion, accept delivery of a dog, cat, or other animal to the animal shelter for euthanasia upon payment to the humane commissioner, animal control officer or city cashier of the following fees:

Dog . . . $150.00

Cat . . . 100.00

Other animals:

Under five pounds . . . $30.00

Five pounds and up to 20 pounds . . . 50.00

Over 20 pounds . . . 100.00

(b) No dog which has been licensed pursuant to this chapter shall be accepted by the humane commissioner or animal control officer for the purposes of euthanasia unless the owner of record executes a written request and consent, as well as the written report required by section 112 of the New York State Agriculture and Markets Law.

(Ord. No. 1446/81, § 1, 4-7-81; Ord. No. 1986/04, § 1, 5-18-04; Ord. No. 2004/05, § 1, 5-3-05; Ord. No. 2057/10, 11/16/2010)

Chapter 6 BOATS, DOCKS AND WATERWAYS*

***Charter references:** Clearing and dredging of water, § 255.

Art. I. In General, §§ 6-1--6-17
Art. II. Municipal Pier, §§ 6-18--6-43
Div. 1. (Reserved), §§ 6-18--6-27
Div. 2. Fishing, §§ 6-28--6-43
Art. III. Boats and Boating, §§ 6-44--6-66
Art. IV. Bulkheads, §§ 6-67--6-72
Art. V. Structures in Waterways, §§ 6-73--6-83

ARTICLE I. IN GENERAL

Sec. 6-1. Operation of seaplanes.

No seaplane shall take off or land upon any waters or waterways within the city or subject to its jurisdiction, except in a case of an emergency.

(Code 1957, § 8-306(a); Ord. No. 535-C, § 1, 11-8-61)

Sec. 6-2. Unlawful use or obstruction of bulkheads, piers and wharves.

(a) It shall be unlawful to obstruct or encumber any bulkhead, pier or wharf property within the city or in the free use thereof; or to obstruct navigation by any floating, stranded or sunken vessel or craft; or to place, discharge or deposit by any process or in any manner, offal, timber, dredgings, dirt, ashes, oil or other matter floatable or otherwise, in the waters adjacent to the city.

(b) Whenever any bulkhead, pier or wharf property shall be unlawfully obstructed, or encumbered or the waters adjacent thereto so fouled or obstructed, and the owner, consignee or person in charge of the vessel, craft or any other matter or thing causing such condition shall fail or neglect to remedy the condition when directed to do so by an order issued by the police department or the city engineer within ten (10) days after service of the order, the city may employ such labor and equipment as may be necessary to carry out the order to remove, destroy and break up or otherwise dispose of such vessel, craft or any other matter or thing, causing such obstruction, encumbrance or fouling, without liability for damage to the owner of, or to any person having or claiming any interest in the same. The city shall be reimbursed by the owner or person in charge, and each of them, for the amount of the expenses so incurred and may maintain an action against them or any of them to recover the same.

(c) A violation of any provision of this section by any owner, consignee or person in charge referred to in this section shall be punishable by a fine of not more than two hundred fifty dollars ($250.00), or imprisonment for not more than fifteen (15) days, or both.

(Code 1957, § 6-218; Ord. No. 1133/72, § 1, 7-11-72)

Secs. 6-3--6-17. Reserved.

Sec. 6-2. Unlawful use or obstruction of bulkheads, piers and wharves.

ARTICLE II. MUNICIPAL PIER

DIVISION 1. (RESERVED)

Secs. 6-18--6-27. Reserved.

DIVISION 2. FISHING

Sec. 6-28. Permit required.

It shall be unlawful to fish by any means from the municipal pier situated at Magnolia Boulevard and the Bay Front without first registering with the Recreational Marine Fishing Registry for the New York State Department of Environmental Conservation.

(Code 1957, § 6-701; Ord. No. 3052/21, 07-06-2021)

Sec. 6-29. Reserved.

Editor's note: Section 6-29 pertaining to Application for permit; fee was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Code 1957, § 6-702.

Sec. 6-30. Reserved

Editor's note: Section 6-30 pertaining to Limitation on number of permits which may be issued to an applicant was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Code 1957, § 6-703.

Sec. 6-31. Hours when fishing is permitted generally; permissible tackle; close of season.

Each registered fisherman may fish from the municipal pier during reasonable hours by means of one (1) fishing pole or one (1) drop line. Fishing by any means other than the use of a fishing pole or drop line is prohibited.

(Code 1957, § 6-704; Ord. No. 3052/21, 07-06-2021)

Sec. 6-32. Liability of permittee.

The person to whom uses the municipal pier pursuant to this division shall be liable for any loss, damage or injury sustained by any person whatsoever by reason of the negligence of the user of the pier.

(Code 1957, § 6-705; Ord. No. 3052/21, 07-06-2021)

Sec. 6-33. Reserved.

Editor's note: Section 6-33 pertaining to revocation was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Code 1957, § 6-706.

Secs. 6-34--6-43. Reserved.

Sec. 6-33. Reserved.

ARTICLE III. BOATS AND BOATING

Sec. 6-44. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Abutting upon shall mean contiguous with, joining or bordering on an adjacent canal.

Anchor shall mean fixing or securing a vessel by some means to the soil or to a buoy which is itself fixed to the soil, or mooring to a dock.

Boat or *vessel* shall mean every description of watercraft or other contrivance used on or capable of being used as a means of transportation in water and in air.

Moor shall mean fixing or securing a vessel to a particular place by fastening with cables, ropes, lines, anchors or by any other means.

(Code 1957, §§ 8-301.2--8-301.5)

Sec. 6-45. Geographical application of article.

The provisions of this article shall apply to all waters or waterways within the city or subject to its jurisdiction, except when prohibited by the laws of the United States.

(Code 1957, § 8-301)

Sec. 6-46. Applicability of state and federal laws.

All provisions of the Navigation Law of the state, all the Inland Rules enacted by Congress and governing the navigation of the inland waters of the United States, and all the Pilot Rules for the United States Inland Waters applicable to the waters of Reynolds Channel as the channel is shown on the U.S. Coast and Geodetic Survey Chart No. 579 issued by the U.S. Navy Hydrographic Office, relative to the rules for vessels passing each other, as to lights on vessels and other matters consistent with the proper use of Reynolds Channel shall be complied with by all vessels navigating the channel.

(Code 1957, § 8-301.1)

Sec. 6-47. Dumping of refuse prohibited.

The dumping of oil, refuse, garbage or waste in all waters included within the territorial jurisdiction of the city is prohibited.

(Code 1957, § 8-303)

Sec. 6-48. Mooring or anchoring vessels generally.

(a) Boats shall not moor or anchor except at the edges of the navigable channel as designated on the said U.S. Coast and Geodetic Survey Chart No. 579 or in areas designated as dock or mooring areas on the chart on file in the office of the

city clerk. In no case shall vessels moor to or anchor within fifty (50) feet of the channel markers or so as to interfere with the full use of the channel.

(b) Vessels shall not moor or anchor so as to endanger the safety of or cause damage to any vessel previously anchored or moored, nor so as to interfere with the mooring of any boat previously laid down. Any vessel so moored or anchored shall be removed by the owner or person in charge thereof on order of the council or any duly authorized officer or agent thereof. If the vessel is not removed after such order to remove it, it may be removed by or at the direction of the council or any duly authorized officer or agent thereof, at the expense of the owner or person in charge of the vessel.

(Code 1957, §§ 8-304, 8-304.1)

Sec. 6-49. Time restrictions on mooring and anchoring.

(a) No vessel shall be tied up or be made fast to any public dock, bulkhead or any other property of the city for a longer continuous period than twelve (12) hours. The council or any duly authorized officer or agent thereof may cause any boat moored for a longer continuous period than twelve (12) hours in any area, except a dock or mooring area, to be removed at the expense of the owner or person in charge of the vessel.

(b) No vessel shall moor or anchor for a longer continuous period than twelve (12) hours except in an area designated as a dock or mooring area on a chart on file in the office of the city clerk, which chart is incorporated in this subsection by reference. The council or any duly authorized officer or agent thereof may cause any vessel moored for a longer continuous period than twelve (12) hours in any area except a dock or mooring area, to be removed at the expense of the owner or person in charge of the vessel.

(Code 1957, §§ 8-304.2, 8-304.3)

Sec. 6-50. Public mooring areas designated; not to affect abutting owners.

All of Sarazen Canal, Ouimet Canal, and the southerly five hundred (500) feet of Hagen Canal, north of Pine Street, are removed from the areas designated as mooring and dock areas. The northerly one hundred eighty (180) feet of the east side of Hagen Canal is hereby designated a "public mooring area." Nothing in this article shall be so construed as to prevent the owner of property immediately abutting upon the canals named in this section from mooring or anchoring a boat owned by him within the waters of the canal adjacent to his property, subject to the provisions of this article.

(Code 1957, § 8-304.5)

Sec. 6-51. Removal of disabled vessels and vessels constituting a hazard to navigation.

Any vessel which becomes a menace to navigation, or unseaworthy, or sinks, grounds or becomes otherwise disabled, shall be removed by the owner or person in charge thereof on order of the council or any duly authorized officer or agent thereof. If the vessel is not removed after orders to remove it, it may be removed by order of the council or any duly authorized officer or agent thereof at the expense of the owner or

person in charge of the vessel.

(Code 1957, § 8-304)

Sec. 6-52. Safe operation of boats and vessels.

(a) Every operator of a boat or vessel shall, at all times, operate or navigate the same in a careful and prudent manner and at such a rate of speed as not to interfere unreasonably with the free and proper use of the navigable waters within the City of Long Beach and/or adjacent to the City of Long Beach to a distance of fifteen hundred (1500) feet from the shore thereof, or so as to unreasonably endanger the life or safety of any person, or cause any damage to vessels, boats or property therein.

(b) No person shall operate a boat or vessel within the City of Long Beach and/or within a distance of fifteen hundred (1500) feet from the shore thereof at a speed which shall cause a wake or wave which is liable to endanger the life or safety of any person or cause damage to property. Causing such a wake or wave when approaching or passing another boat is prohibited.

(Code 1957, § 8-305; Ord. No. 1549/84, § 1, 7-3-84)

State law references: Speed and reckless operation, Navigation Law, § 45.

Sec. 6-53. Speed of boats and vessels.

(a) No person shall operate a boat or vessel in or upon any waters adjacent to the City of Long Beach to a distance of fifteen hundred (1500) feet from the shore thereof at a speed greater than twelve (12) miles per hour, where such speed limitation is so reasonably posted.

(b) Notwithstanding the provisions of subsection (a) of this section, no person shall operate a boat or vessel at a speed greater than five (5) miles per hour in or upon any waters:

(1) Within the City of Long Beach; or

(2) Adjacent to the city within a distance of one hundred (100) feet from the shore or from any anchored or moored vessel.

(c) The provisions of this section shall not apply to a vessel while actually competing in a regatta or boat race authorized under section 34 of the Navigation Law or pursuant to permit duly issued by federal and/or state authority.

(d) The provisions of subdivision (b) above shall not apply to commercial vessels having a valid marine document issued by the United States or a foreign government.

(Code 1957, § 8-306; Ord. No. 1549/84, § 2, 7-3-84)

Sec. 6-54. Mufflers required for certain vessels.

No person shall operate a boat propelled wholly or partly by an engine operated by the explosion of gas, gasoline, naphtha or other substances without having the exhaust from the engine run through a muffler so constructed and used as to muffle the

noise of the exhaust in a reasonable manner.

(Code 1957, § 8-307)

State law references: For similar provisions, see Navigation Law, § 44-c.

Sec. 6-55. Reserved

Editor's note: Section 6-55 pertaining to mooring permits was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Code 1957, §§ 8-304.4, 8-308, 8-308.1--8-308.4.

Sec. 6-56. Penalty for violation of this article.

(a) Except as herein provided, every violation of this article shall be deemed a violation within the intent of the Penal Law of the State of New York, and upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars ($250.00), or by imprisonment not to exceed fifteen (15) days, or by both such fine and imprisonment; in addition, any permit issued pursuant to this article may be revoked or suspended.

(b) The violation of any of the provisions of sections 6-52 and 6-53 of this article shall be deemed an offense, punishable by a fine not exceeding one hundred dollars ($100.00) or by imprisonment for not exceeding thirty (30) days or by both such fine and imprisonment for a conviction of a first offense; by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00) or by imprisonment for not exceeding ninety (90) days or by both such fine and imprisonment for conviction of a second offense committed within a period of eighteen (18) months; by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) or by imprisonment for not exceeding one hundred eighty (180) days, or by both such fine and imprisonment for conviction of a third or subsequent offense committed within a period of eighteen (18) months.

(Code 1957, § 8-309; Ord. No. 1145/72, § 1, 10-3-73; Ord. No. 1549/84, § 3, 7-3-84)

Secs. 6-57--6-66. Reserved.

ARTICLE IV. BULKHEADS

Sec. 6-67. Bulkhead lines established.

Bulkhead lines are hereby established on Bob Jones Canal along lines parallel to and at a distance of thirty (30) feet easterly and westerly of the midpoint of Bob Jones Canal as established by reference to a map entitled "Map of the City of Long Beach, Nassau County, N.Y.", dated March 9, 1934, signed by Cletus C. Kessler, Engineers, filed in the office of the city engineer. Bulkhead lines on all other canals within the city shall be located and established as shown on the map.

(Code 1957, § 10-1200; Ord. No. 779, § 1, 3-1-66; Ord. No. 991/70, § 1, 9-14-70)

Sec. 6-68. Projecting structures beyond bulkhead lines prohibited.

It shall be unlawful to maintain, build or commence the building of any bulkhead, wharf, pier, dolphin, boom or other structure of any nature which shall extend beyond the bulkhead lines established in this article, or to alter existing structures so as to cause them to project beyond the bulkhead lines.

(Code 1957, § 10-1201; Ord. No. 779, § 1, 3-1-66; Ord. No. 991/70, § 1, 9-14-70)

Sec. 6-69. Construction and repair of bulkheads.

The commissioner of public works, or the deputy, may inspect all bulkheads and other structures abutting upon canals and other waterways in the city. The city may construct, repair, maintain and care for such bulkheads and other structures, or may upon due notice direct and order such work to be done by the owner or occupant of the property abutting such a waterway where the existing bulkhead or the absence of a bulkhead constitutes a dangerous or unsafe condition or is necessary or required in the opinion of the said commissioner of public works or the deputy. Such work shall be done in accordance with specifications to be furnished by the city, and must be built to base flood elevation, and shall not be undertaken until plans and specifications have been filed with the city's building commissioner and a permit therefor has been issued by said building commissioner, the fee for which shall be the same as provided for a building permit. The public works commissioner or the deputy shall inspect the work in process and at completion, and shall certify to the building commissioner whether the work is satisfactory. If such owner or occupant is directed and ordered to do such work, and fails, neglects, refuses or omits to do so within a reasonable length of time in the opinion of the public works commissioner, the city may do the work or contract to have the work done and may pay for the same out of city funds, and may assess the cost thereof against the benefited abutting property, and may direct that such assessment be paid at a specified time or in specified annual installments, or may recover the cost thereof in an action at law.

(Code 1957, § 10-1202; Ord. No. 779, § 1, 3-1-66; Ord. No. 991/70, § 1, 9-14-70; Ord. No. 1453/81, § 1, 6-16-81; Ord. No. 3052/21, 07-06-2021)

Sec. 6-70. Appeal from order of commissioner of public works.

Should any owner, agent or person in charge of or responsible for maintenance of or repairs to a bulkhead or other structure abutting a canal consider himself aggrieved by the order of the commissioner of public works to make repairs or take remedial action with respect to a bulkhead, he may, within fifteen (15) days after the order has been served upon him, appeal to the council which shall thereupon make such order as it may deem right and reasonable, and the order shall be final.

(Code 1957, § 10-1203; Ord. No. 779, § 1, 3-1-66; Ord. No. 991/70, § 1, 9-14-70)

Sec. 6-71. Repair.

Whenever the owner, agent or person in charge of or responsible for maintenance of or repairs to a bulkhead or a structure abutting a canal shall omit to maintain or repair the bulkhead or other structure abutting the canal adjacent to his property within fifteen (15) days after notice to do so to the person appearing on the assessment roll as the owner thereof, at the address appearing on the assessment roll, the commissioner of public works shall certify to the city treasurer the cost of such repairs, and upon the receipt of the certification of such cost, the city treasurer shall assess and enter as a lien against such property the certified cost thereof, and shall, within ten (10) days after the entry of the assessment of lien, send notice thereof and a demand of payment thereof to the person appearing on the assessment roll as the owner thereof. If the lien shall not be paid within forty (40) days after the entry thereof, interest shall be payable thereon from the date of entry of such lien at the rate of one (1) per cent per month or fraction thereof.

(Code 1957, § 10-1204; Ord. No. 779, § 1, 3-1-66; Ord. No. 991/70, § 1, 9-14-70)

Sec. 6-72. Manner of service of notices and orders.

It shall be sufficient service of a notice and/or order issued by the commissioner of public works or his deputy pursuant to this article if it is mailed by certified mail, return receipt requested, and a copy thereof is mailed by ordinary mail, to the person appearing on the assessment roll as the owner of the abutting property, at the address appearing on the assessment roll.

(Ord. No. 1469/82, § 1, 3-16-82)

ARTICLE V. STRUCTURES IN WATERWAYS

Sec. 6-73. Definitions.

The following definitions shall apply in the enforcement and interpretation of this article:

Datum plane shall refer to the mean sea level or average height of the sea at Sandy Hook, New Jersey, all stages of the tide being considered, as determined by the United States Coast and Geodetic Survey.

Navigable waters shall apply to waters having a depth of at least four (4) feet at ordinary low tide.

Structures shall include any submerged or underground cables, pipes, or any fixtures crossing any waterway or the adjacent upland; a float or series of floats, a pier, a dock, a mooring pile; and any fixture or appurtenance extending under, to, over or into the waterway and bulkheading.

Waterway shall include any waterway or watercourse of the City of Long Beach, the bed of which is owned by the city, or in which the city has any interest for drainage or otherwise.

(Ord. No. 1798/93, § 1, 3-2-93)

Sec. 6-74. Permit required.

(a) No person shall maintain, construct, install, rehabilitate or repair, or cause to be maintained, constructed, installed, rehabilitated or repaired, any structure over, on, into or adjacent to any waterway of the City of Long Beach except after obtaining a permit from the building department, and unless that person is the owner or lessee of the upland at the place where such structure or mooring pile is proposed to be constructed or maintained.

(b) No permit shall be granted hereunder unless the upland at the place where the structure to be erected, maintained, rehabilitated or repaired is zoned for residential use, only.

(c) No provision of this article shall relieve a person from complying with the provisions of any federal, state or town law or regulation, including but not limited to the acquisition of any other required permit or approval by the New York State Department of Environmental Conservation pursuant to Article 25, Title 4, of the Tidal Wetlands Act.

(Ord. No. 1798/93, § 1, 3-2-93)

State law references: Tidal Wetlands Act, Environmental Conservation Law, § 25-0101 et seq.

Sec. 6-75. Application for permit.

Every person who shall apply for a permit to construct, install, rehabilitate or repair a structure or mooring pile permitted by this article shall file a verified application,

in triplicate, on forms to be provided by the building department stating:

(1) His or her name and address.

(2) His or her status as owner, lessee, licensee or otherwise of the upland immediately abutting the mean high-water mark at the place where such structure or mooring pile is proposed to be constructed or maintained.

(3) The name and address of the owner of such upland (if the applicant is not the owner thereof).

(4) The manner in which such upland is zoned.

(5) The exact use to which the applicant intends to put such upland after the permit is issued.

(6) The exact use to which the applicant intends to put such structure or mooring pile after the permit is issued.

(7) A plan of the proposed structure or mooring pile showing structural details and location with respect to the applicant's property, signed and sealed by an architect or engineer.

(8) The estimated cost of the proposed structure or mooring pile.

(9) A general description of any other structures or mooring piles proposed to be erected, maintained, rehabilitated or repaired on such structure or annexed to such mooring pile.

(10) That the plans attached to said application are complete and accurate.

(Ord. No. 1798/93, § 1, 3-2-93)

Sec. 6-76. Survey required.

Under this article, each applicant for a permit to construct, install, rehabilitate or repair, for noncommercial, nonbusiness purposes, a structure, or mooring pile for the applicant's personal use, in connection with upland zoned or used for residential purposes, shall:

(1) Attach a survey to the application, showing the parcel of upland in connection with which such structure or mooring pile is intended to be used.

(2) Indicate the portion of said waterway intended to be occupied by such structure or mooring pile.

(3) Submit plans of such structure or mooring pile, signed and sealed by an architect or engineer, and satisfactory to the building commissioner.

(4) Submit proof satisfactory to the corporation counsel that the applicant is the owner or lessee of the upland.

(Ord. No. 1798/93, § 1, 3-2-93)

Sec. 6-77. Fees.

The fees for filing applications under this article shall be the same as those required for a building permit.

(Ord. No. 1798/93, § 1, 3-2-93)

Sec. 6-78. Permit; when issued.

Application for installation, construction, replacement, alteration, rehabilitation or repair of a structure or mooring pile will be examined for compliance with laws, ordinances, regulations and specifications governing such structures or mooring piles, and approved or disapproved by the building commissioner based on such compliance. Upon approval of such application, a permit will be issued by the building commissioner.

(Ord. No. 1798/93, § 1, 3-2-93)

Sec. 6-79. Maintenance of structures.

(a) Any structure or mooring pile, erected or installed, rehabilitated or repaired under this article, shall at all times be maintained by the permittee, his or her successor or assignee of the adjacent upland, in good repair and condition and not as a menace to navigation or to persons using the structure or mooring pile, and the building commissioner, upon finding reasonable cause to believe that the permittee, his successor or assignee of the adjacent upland has failed to comply with this section, may forthwith suspend any permit issued under this article for a period not to exceed thirty (30) days, and after hearing, on written notice, mailed to the permittee, his or her successor or assignee of the adjacent upland at his/her last known address, and at least ten (10) days prior to such hearing, may revoke such permit and remove or repair such structure of mooring pile and charge the permittee, his/her successor or assignee of the adjacent upland, with the expense of such removal or repair.

(b) Every owner, lessee, permittee, his or her successor or assignee of the adjacent upland shall make, maintain and repair the structure and or mooring pile and shall keep such structure free and clear of snow, ice and other obstructions. Such owner, lessee, permittee, his or her successor or assignee of the adjacent upland shall be liable for any injury or damage by reason of omission, failure or negligence to make, maintain or repair such structure or mooring pile, or to remove snow, ice or other obstructions therefrom, or for a violation or nonobservance of the ordinances relating to making, maintaining and repairing such structures or mooring pile and the removal of snow, ice and other obstructions from such structure or mooring pile.

(Ord. No. 1798/93, § 1, 3-2-93; Ord. No. 1943/01, § 1, 4-17-01)

Sec. 6-80. Noninterference with navigation of waterways.

A structure or mooring pile erected in accordance with the provisions of this article shall be maintained in such manner that there shall be no interference with navigation nor with public usage of the waterway.

(Ord. No. 1798/93, § 1, 3-2-93)

Sec. 6-81. Necessary conditions.

In approving any structure or mooring pile hereunder, the building commissioner may impose whatever conditions it may find necessary for the public health, safety or welfare.

(Ord. No. 1798/93, § 1, 3-2-93)

Sec. 6-82. Regulations.

No structure or mooring pile shall be installed, constructed, maintained, rehabilitated or repaired under this article unless it shall comply with the following regulations:

(a) Structures shall be sound, approved engineering design, and, except for floats, shall have a minimum waterway and freeway clearance of six (6) feet above mean sea level, Nassau County Datum Plane, and be of open pile-type design; and the supporting bents of such structures shall have a minimum distance of six (6) feet on centers in any direction.

(b) The location, design and use of the structure or mooring pile shall comply with all local laws, public health laws and requirements and conform to the standards of construction consistent with the prevention of fire hazards.

(c) No structure installed, constructed, maintained, rehabilitated or repaired hereunder, an the boats and/or vessels moored or tied up thereto, shall encroach into the waterway beyond one-third of the width of the waterway, or the following distances from the respective bulkhead lines, whichever is less:

(1) Sarazen Canel twenty-six (26) feet.

(2) Ouiment Canel, twenty-four (24) feet.

(3) Hagen Canal, twenty-seven (27) feet.

(4) Bob Jones Canal, twenty (20) feet.

(d) *Additional rules and regulations.* The city council shall establish rules and regulations or amend the same, by resolution, to secure the intent, purpose and enforcement of this article. The building commissioner and/or commissioner of public works shall recommend such rules and regulations to the city council.

(Ord. No. 1798/93, § 1, 3-2-93)

Sec. 6-83. Penalties for offenses.

Any person or persons, association or corporation committing an offense against this article or any section or provision thereof is guilty of a violation punishable by a fine not exceeding two hundred fifty dollars ($250.00) or imprisonment for a period not exceeding fifteen (15) days for each such offense, or by both such fine and imprisonment.

(Ord. No. 1798/93, § 1, 3-2-93)

Chapter 7 BUILDING CODE*

***Cross references:** Electrical code, Ch. 10; fire prevention and protection, Ch. 11; housing and property rehabilitation and conservation code, Ch. 13; excavations of sand, topsoil and other earthen materials, § 17-1; planning and zoning generally, Ch. 20; plumbing code, Ch. 21; zoning, App. A.

Art. I. In General, §§ 7-1--7-17
Art. II. Administration and Enforcement, §§ 7-18--7-70
Div. 1. Generally, §§ 7-18--7-24
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Art. XVII. Establishment Of Energy Benchmarking Requirements For Certain Municipal Buildings, §§ 7-282--7-288

ARTICLE I. IN GENERAL

Sec. 7-1. Definitions.

(a) In addition to the definitions set forth in the state building construction code adopted in this article, the following terms shall, for the purposes of this chapter, have the meanings ascribed to them as follows:

Accessory building: A subordinate building or structure on the same lot as the main building, occupied by or devoted exclusively to an accessory use.

Accessory use: A use, occupancy or tenancy customarily incidental to the principal use or occupancy of a building.

Addition: Extension or increase in area, height or equipment of a building or structure.

Alteration: As applied to a building or structure, shall mean any change, rearrangement, or enlargement in the structural parts or exit facilities of a building or structure, whether by extending said building or structure on any side or by increasing said building or structure in height, or the moving of said building or structure from one location or position to another location or position.

Appendage: Equipment and/or stairway bulkhead not exceeding twenty (20) feet in height.

Apartment or suite: Shall mean one (1) or more rooms occupied or intended to be occupied as the home or residence of an individual, family or household.

Approved: Shall mean constructed, installed and maintained in accordance with the provisions of this chapter and other pertinent provisions of this Code or other ordinances or regulations of the city.

Approved material and construction: Shall mean approved by the commissioner of buildings under the provisions of this chapter or the building code of the city (or the New York State Uniform Fire Prevention and Building Code), or by any other authority authorized by law to give approval in the matter in question.

Attic: Space between the top of uppermost floor construction and underside of roof.

Basement: That space of a building which is at least one (1) foot below grade, which has more than one-half of its height, measured from floor to ceiling, either above adjoining ground or grade level, whichever is higher.

Bathroom: An enclosed space containing a minimum of one (1) water closet, one (1) lavatory, and either one (1) bathtub or one (1) shower. It may also contain additional plumbing fixtures serving similar purposes. See definition of "toilet room."

Blight: A condition that is of substandard quality or appearance.

Building: A structure wholly or partially enclosed within exterior or party walls and a roof, affording shelter to persons, animals or property.

Building area: The aggregate of the maximum horizontal cross-section area of the buildings on a lot, excluding cornices, eaves, gutters, bay windows or chimneys projecting not more than twenty-four (24) inches, steps, one-story open porches, balconies and terraces. It shall not include accessory buildings less than fifteen (15) feet in height.

Building line: Shall mean the line formed by the exterior edge of any side of a building, including the line which would be created if said side was extended along the same plane to the property line.

Cellar: That space of a building which is partly or entirely below grade, which has more than one-half of its height, measured from the floor to the ceiling, below either adjoining ground or grade level, whichever is higher.

Code enforcement officer: Shall mean the commissioner or his duly authorized representative.

Commissioner of buildings or commissioner: Shall mean the commissioner of buildings and property conservation of the city or his legally designated representative.

Court: Shall mean a space, other than a yard, on the same lot as building or structure, which is open on at least one (1) side of said space and is open to the sky.

Court, inner: Shall mean a court not extending to a street or yard.

Court, outer: Shall mean a court extending to a street or yard.

Department: Shall mean the department of buildings and property conservation of the city.

Dormitory/student residence: Shall mean a building or part of a building designed, used or intended to be used as and for the residence of full-time students of a school duly licensed by the Department of Education and the State of New York. Every dormitory/student residence must be located either in the same building, or on the same lot, or on a lot contiguous to the school which the residents of the dormitory/student residence attend.

Dwelling: A building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, including one-family, two-family and multiple-family dwellings.

Dwelling, one-family: A building containing not more than one dwelling unit occupied exclusively for residential purposes.

Dwelling, two-family: A building containing two (2) dwelling units occupied exclusively for residential purposes.

Dwelling, multiple: A building containing three (3) or more dwelling units occupied exclusively for residential purposes.

Dwelling unit: A living unit containing one or more habitable rooms, with provisions for living, cooking, eating, sanitary and sleeping facilities arranged for the use of one family.

Equipment: Plumbing, heating, electrical, ventilating, air conditioning, refrigerating, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

Exterior property areas: Shall mean open spaces on the premises and vacant open space on adjacent premises.

Extermination: Shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing, or making inaccessible, materials that may serve as their food by any recognized and legal pest elimination method approved by the enforcement officer.

Family: The term "family" shall mean one of the following:

(1) One person living alone; or

(2) Two (2) or more persons, all of whom are related to each other by blood, adoption or marriage, living together in a single dwelling unit; or

(3) Not more than two (2) persons not related to each other by blood, adoption or marriage, living and cooking together in a single dwelling unit; or

(4) A group home for a surrogate family consisting of foster parents and children, as described in Section 374-c of the New York State Social Services Law, or other similar functionally equivalent family, living and cooking together in a single dwelling unit.

Garbage: Shall mean all putrescible animal, vegetable or mineral wastes resulting from the handling, preparation, cooking and consumption of food.

Grade level: Center line or road adjacent to property or base flood elevation and applicable freeboard as required by Article XII-FLOOD HAZARD ZONES of the City's Building Code

Habitable room: Shall mean a room occupied by one (1) or more persons for living, eating or sleeping, and includes kitchens serving individual households or apartments, but does not include bathrooms, water closet compartments, laundries, serving and storage pantries, corridors, cellars and similar spaces that are not used frequently or during extended periods, nor does it include kitchenettes.

Height: The height of a wood frame building shall be measured from grade level to the highest point of the roof in the case of roofs inclining not more than one inch to each foot and in the case of other roofs to a level halfway between the top of the main plate and the highest ridge. In all other building classifications, the height will be measured from grade level to the highest point of the building. This measurement shall not include appendages upon the roofs of such building.

Infestation: Shall mean the presence within or around a dwelling, dwelling unit, rooming house, rooming unit or premises, of insects, rodents, vermin or other pests.

Junked vehicle: Shall mean any vehicle, including a trailer, which is without a currently valid license plate or plates, and is in either a rusted, wrecked, discharged, dismantled, partly dismantled, inoperative or abandoned condition. A junked vehicle shall be classified as to its condition in one of the two (2) following categories:

(1) Restoration (Symbol "R"). The term restoration shall mean a junked vehicle that is in a condition whereby repairs to it could be made to place it in operating condition without undue expense.

(2) Wreck (Symbol "W"). The term "wreck" shall mean a junked vehicle in such condition that it is economically unsound to restore it to operating condition, taking into consideration the repairs to be made, the age of the vehicle and the market value of the vehicle if it were restored; or in such condition whereby the commissioner in his opinion determines that it warrants such classification. The commissioner shall make the final determination as to the classification to be assigned to any particular vehicle.

Kitchen: Shall mean a space, sixty (60) square feet or more in floor area, with a minimum width of five (5) feet, used in cooking or preparation of food, and is deemed habitable space.

Kitchenette: Shall mean a space, less than sixty (60) square feet in floor area, used for cooking or the preparation of food, and is not deemed habitable space.

Lot: Any plot, tract or parcel of land occupied by one or more principal buildings and accessory buildings and uses, including such open spaces as are required by this chapter.

Lot, depth of: The average distance from the street line to the rear lot line, measured in the average general direction of the sidelines of the lot.

Lot, rear line: The lot line opposite the street line, or in the case of a corner lot, the lot line elected by the owner, provided that it be indicated on the plans filed with the building commissioner as provided hereafter.

Lot, width of: The distance between the side lot lines measured at the center of depth of the lot.

Mixed occupancy: Occupancy of a building in part for residential use and in part for commercial use.

Nonhabitable space: Shall mean a room within a dwelling such as bathrooms, water closet compartments, laundries, kitchenettes, serving and storage pantries, corridors, cellars and similar spaces that are not utilized frequently or for extended periods of time.

Occupant: Shall mean any person, including an owner or operator, over one (1) year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or room in a rooming house.

Operator or manager: Shall mean any person having charge, care, management or control of any dwelling or part thereof, in which dwelling units or rooming units are let.

Owner: Shall mean any person who, singly, jointly or severally with others, holds legal or equitable title to any dwelling, dwelling unit, rooming house or rooming unit. Owner shall include any agent, employee, officer or director thereof.

Parking space: An area of not less than one hundred eighty (180) square feet, net, having a width of not less than nine (9) feet and a length of not less than twenty (20) feet, net, to be used exclusively as a temporary storage space for one private motor vehicle. Compact parking spaces shall have a width of not less than eight (8) feet and a length of not less than seventeen (17) feet, net. Truck loading and unloading space shall not be included in such area.

Party wall: A wall on an interior lot line used or adapted for joint service between two (2) buildings or structures.

Plumbing: Shall mean and include all of the following supplied facilities and equipment: Gas pipes; gas-burning equipment; water pipes; waste pipes; water closets; sinks; installed dishwashers; lavatories; bathtubs; shower baths; installed clothes washing machines; catch basins; drains; vents; and any other similar supplied fixtures, together with all connections to water, sewage or gas lines.

Potable water: Shall mean water which is approved for drinking, culinary and domestic purposes as set forth in the state sanitation code.

Premises: A lot, plot or parcel of land including the building or structures thereon.

Private garage: A building or part thereof accessory to a main building and providing for the storage of automobiles and which shall not be utilized for any occupation or business purposes.

Public garage: A building for the maintenance, caring for or repairing of automobiles or motor vehicles, general repair service and auto body work as well as a building for use as a gasoline filling station.

Public space: Shall mean space within a residential building for public use, such as lobbies, lounges, reception, ball, meeting, lecture and recreation rooms, banquet and dining rooms and their kitchens and swimming pools.

Refuse: Shall mean all cardboard, plastic, metal or glass food containers, wastepaper, rags, sweepings, small pieces of wood, excelsior, rubber, leather and

similar waste material that ordinarily accumulates around a home, business or industry.

Rehabilitation: Rehabilitation shall mean to repair and/or replace in whole or in part any building or structure at a cost in excess of fifty (50) percent of the market value of such building or structure immediately before work is commenced, exclusive of the value of the land and foundation.

Rooming house: Shall mean any dwelling, or part thereof, which contains one or more rooming units, in which space is let by the occupant or owner to three (3) or more persons not directly related to him, for residential purposes, but not for cooking or eating purposes.

Rooming unit: Shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living or sleeping, but not for cooking or eating purposes.

Rubbish: Shall mean all combustible and noncombustible waste, except garbage.

Sewage: Shall mean liquid waste containing animal or vegetable matter in suspension or solution, and which may include industrial wastes and liquids containing chemicals.

Story: The portion of a building which is between one floor level and the next higher floor level or the roof. A basement, where the finished floor immediately above such basement is less than seven (7) feet above grade, as defined in this section, shall not be deemed a story. Under no circumstances, shall an attic or a cellar be deemed to be a story.

Street line: The dividing line between a street and a lot.

Structure: Shall mean a combination of materials to form a construction that is safe and stable and includes, among other things, buildings, porches, balconies, terraces, decks, stadiums, tents, reviewing stands, platforms, stagings, radio and television towers and antennas, satellite dishes, sheds, storage bins, walls, fences and display signs; the term "structure" shall be construed as if followed by the words "or part thereof."

Studio unit: Shall mean a living unit containing one habitable room with provisions for living, cooking, eating and sleeping facilities arranged for the use of one family.

Toilet room: An enclosed space containing a minimum of one (1) water closet and one (1) lavatory; it may also contain additional plumbing fixtures serving similar purposes. See the definition of "bathroom."

Unoccupied hazard: Shall mean any building or structure or part thereof situated within one (1) or more residential zoning districts, or within one thousand (1,000) feet of any residential zoning work district, which remains unoccupied for a period of more than six (6) months with its doors, windows or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than six (6) months.

Ventilation: Shall mean the supply and removal of air to and from a space by natural or mechanical means.

Ventilation, mechanical: Shall mean ventilation by power-driven devices.

Ventilation, natural: Shall mean ventilation by an opening to outer air through windows, skylights, doors, louvers or stacks, with or without wind-driven devices.

Water closet: Shall mean a toilet, with a bowl and trap, which is connected to the city water and sewer system or to other approved water supply and sewer system.

Yard: An open space on the same lot which contains a building and located between the building line and the lot line which the particular building line faces.

Yard, front: An open space extending from the front building line to the front lot line, unoccupied and unobstructed from the ground upward, excluding cornices, eaves, gutters, bay windows and chimneys projecting not more than eighteen (18) inches.

Yard, rear: An open space extending from the rear building line to the rear lot line, unoccupied and unobstructed from the ground upward, excluding cornices, eaves, gutters, bay windows and chimneys projecting not more than eighteen (18) inches.

Yard, side: An open space extending from the front yard to the rear yard and located between the building line and the side lot line, which space shall be unoccupied and unobstructed from the ground upwards, excluding cornices, eaves, gutters, bay windows and chimneys projecting not more than eighteen (18) inches, and except as hereinafter specified.

(b) Whenever the words "building," "dwelling," "dwelling unit," "rooming house" and "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

(Code 1957, §§ 10-202, 10-901; Ord. No. 1751/91, § 1, 4/16/91; Ord. No. 1756/91, § 1, 6-4-91; Ord. No. 1794/92, § 1, 12-1-92; Ord. No. 1988/04, § 1, 7-6-04; Ord. No. 3052/21, 07-06-2021; Ord. No. 3066/22, 08-16-2022)

Sec. 7-2. Applicability of state building construction code.

The 2007 New York State Building Code, Residential Code, Fire Code, Property Maintenance Code, Existing Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code and Energy Conservation Code and any future updates of these codes are hereby made applicable to the City of Long Beach.

(Code 1957, § 10-101; Ord. No. 2031/08, § 1, 9-16-08)

Sec. 7-3. Scope of chapter.

All matters concerning, affecting or relating to the construction, alteration or removal of buildings or structures, erected or to be erected in the city are presumptively provided for in this chapter, except insofar as such provisions are contained in the charter, the Labor Law, the Multiple Residence Law, the New York State Building Construction Code and the rules and regulations promulgated in accordance with the provisions of this chapter.

(Code 1957, § 10-201)

Sec. 7-4. Chapter declared to be remedial.

This chapter is hereby declared to be remedial, and shall be construed liberally,

in order to secure the beneficial interests and purposes thereof.

(Code 1957, § 10-201.1)

Sec. 7-5. Work which is required to comply with this chapter.

No wall, structure, building or part thereof shall hereafter be constructed, nor shall the equipment of any building, structure or premises be so altered in the city, or demolished, except in conformity with the provisions of this chapter and the state building construction code. No building already erected, or hereafter built in the city, shall be altered in any manner that would be in violation of any of the provisions of this chapter, or in violation of any approval of the building commissioner made and issued pursuant to this chapter; however, nothing in this chapter shall prohibit the raising or lowering of any building to meet a change of grade in the street on which it is located if the building is not otherwise altered.

(Code 1957, § 10-201.2)

Sec. 7-6. Contractor to be licensed.

(a) No person shall establish, carry on or engage in the building business in the city in the capacity of a contractor without first having been licensed therefor as provided in section 14-14 et seq., except that a corporation or firm may establish, engage in or carry on a building business under a contractor's license granted in accordance with the provisions of this chapter to a contractor who is employed in the business as a supervisor or directing contractor and who will be responsible for the carrying on of the business in accordance with the provisions and requirements of this chapter.

(b) Any person desiring a master builder's license shall make application in writing to the city clerk, and establish to the satisfaction of the city clerk and the commissioner, his competence and his familiarity with the Zoning Ordinance, this chapter and Chapter 21 of this Code.

(c) Notwithstanding any provision of this article to the contrary, any person desiring or intending to engage in the building business as a master builder, general contractor, subcontractor or mechanic in the City of Long Beach solely for the purpose of rehabilitating premises within the city under and pursuant to the federally funded Nassau County Community Development Block Grant Rehabilitation Program subsidized in whole or in part and administered by the Nassau County Office of Community Development, may engage in such business for such limited purpose provided that he shall first obtain from the city clerk of the City of Long Beach a temporary license restricted to that limited purpose, and must submit proof that he holds a valid and subsisting license or licenses to engage in such business issued by one or more recognized municipal subdivisions of the County of Nassau. The fee for such a temporary restricted license shall be twenty-seven dollars and fifty cents ($27.50), and it shall be issued only with the approval of the building commissioner or his designee, who shall specify the terms, amount and duration of the bond to be furnished, and such license shall be issued for a term not to exceed one year and shall expire on November thirtieth.

(Code 1957, § 5-105.11; Ord. No. 1333/77, § 3, 1-4-77; Ord. No. 3052/21, 07-06-2021)

Secs. 7-7--7-17. Reserved.

Sec. 7-6. Contractor to be licensed.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

***Cross references:** Enforcement procedure for violation of the building code, § 13-25.

DIVISION 1. GENERALLY

Sec. 7-18. Inspection of buildings generally; report of violations.

A building inspector shall examine all buildings in the course of their construction as often as practicable, and shall make written reports to the commissioner, including all violations of this chapter, together with the street and number where the violations are found, the name of the owner, agent or contractor, and other matters relative thereto. No oversight or dereliction of duty on the part of a building inspector shall legalize the construction, razing, moving or alteration of any building not in conformity with the provisions of this chapter. Any officer or employee of the department of buildings, so far as it may be necessary for the performance of his duties, shall have the right to enter any building or premises in the city upon showing his badge of office.

(Code 1957, § 10-201.3)

Sec. 7-19. Revocation of permits or approval.

The commissioner may revoke any permit or approval issued under the provisions of this article, where it has been found that false statements or any misrepresentation of material facts had been used to obtain the permit or approval. The commissioner may revoke any permit or approval issued under the provisions of this article if the work contemplated thereby is performed by an unlicensed builder or mechanic.

(Code 1957, § 10-204.7)

Sec. 7-19.1. Reserved.

Editor's note: Ord. No. 1429/80, § 1, enacted Sept. 16, 1980, repealed former § 7-19.1 relative to a moratorium on certain building permits. Said section previously derived from Code 1957, § 10-204.8 and the following legislation:

Ord. No.	Section	Date
1036/71	1	4-6-71
1070/71	1	8-3-71
1165/73	1	4-4-73
1183/73	1	10-2-73
1200/74	1	2-5-74
1224/74	1	6-4-74
1265/74	1	12-3-74

Sec. 7-20. Fees for permits and certificates generally.

(a) *Estimated cost.* As used in this section 7-20, the term "estimated cost" shall mean the amount of money that would ordinarily be expended for good, safe construction in the erection of the complete building or structure or in the alteration thereof, exclusive of interior decoration.

(b) *Applications for building permits.*

(1) The application fee for building permits for all new buildings and structures, and alterations of existing buildings and structures, and for temporary structures, roofing, siding, driveways, fences, sidewalks, etc., shall be $150.00 for the first $1,000.00 estimated cost of construction, plus $15.00 for each additional $1,000.00 estimated cost of construction or any part thereof.

(2) In addition to the application fees required to be paid for a building permit as set forth in the foregoing paragraph (1), each applicant for a building permit for construction of a new building or structure, or for the alteration or rehabilitation of an existing multiple dwelling, the estimated cost of which exceeds $25,000.00, shall pay to the building commissioner an additional sum equal to the aforesaid application fee for the building permit, which additional sum shall be held by the city comptroller in a separate capital improvement fund for the expansion, improvement, construction and maintenance of new and existing parks, playgrounds, recreational facilities and other public works.

(c) *Applications for certificates of occupancy.* The application fee for a certificate of occupancy shall be as follows:

(1) $200.00 for any new one-family house or two-family house.

(2) For any other new building or structure, $20.00 for the first $1,000.00 cost of construction, plus $4.00 for each additional $1,000.00 cost of construction or part thereof, the total fee to be not less than $200.00 nor more than $1,000.00.

(3) $200.00 for any condominium and an additional $100.00 for each dwelling unit within said condominium.

(4) For existing buildings or structures, the fee shall be:

(i) $200.00 for any existing one-family house or two-family house.

(ii) $200.00 for the first three (3) units of an existing multiple dwelling, plus $10.00 for each additional unit in excess of three (3).

(iii) For existing commercial, business, or industrial buildings or structures, $300.00 for the first 2,000 square feet of floor space, plus $50.00 for each additional 400 square feet of floor space or part thereof, contained within such building or structure.

(5) For mixed uses, the fee shall be $200.00 for the first 2,000 square feet of commercial floor space plus $40.00 for each additional 400 square feet of commercial floor space or part thereof, plus $150.00 for the first three (3) residential units therein, plus $4.00 for each additional residential unit in

excess of three (3) within such mixed use building.

(6) For a temporary certificate of occupancy for a period not to exceed ninety (90) days, the fee shall be $300.00.

(d) *Applications for use and change of use permits.* The application fee for a use permit or a change of use permit shall be $75.00.

(e) *Applications for letter of completion.* The application fee for a letter certifying to the completion of the construction or alterations shall be $50.00.

(f) *Applications for additional inspections.* For each additional inspection required for the issuance of a certificate of occupancy, change of use permit or a letter of completion of the construction or alterations, for such additional inspection the fee shall be $30.00.

(g) *Applications for preliminary plan review.*

(1) The application fee for the building department to review preliminary plans unaccompanied by an application for a building permit shall be fifty (50) per cent of the application fee for a building permit, the total fee to be not less than $100.00 nor more than $500.00.

(2) Notwithstanding any other provision of this section, the fee paid for a preliminary plan review shall be applied and credited to the building permit application fee provided that an application for a building permit together with complete plans for the proposed construction or alteration are filed within ninety (90) days of the date the building department's preliminary review is completed. In any and all other cases, such fee shall not be refundable or so credited.

(h) *Payment of fees.*

(1) Upon the filing of any application under this division, fees of $60.00 or less shall be paid in full and shall not be refunded if the application for permit is not approved.

(2) Upon the filing of any application under this division involving a fee of more than $60.00, the applicant shall pay fifty (50) per cent of the fee but not less than $60.00, which sum shall not be refunded if the application for a permit is not approved.

(i) *Increased fees.* Where construction or other work requiring a permit pursuant to this chapter was commenced prior to the issuance of a permit, the fee for such construction or other work shall be two (2) times the amount otherwise provided for in chapter 7, article 11. This subsection 7-20(i) shall not apply to any permit application submitted to the building department in compliance with this chapter on or before the effective date of this section.

(j) *Waiver of retainage fee.* A fee of three dollars ($3.00) per square foot of lot size shall be charged to developers requesting and receiving a waiver of the county's on-site storm water retainage requirements and said funds should be set aside in a storm water account to be utilized to offset the cost of repairing and maintaining the storm water drainage system of the city. Said fee must be paid prior to the issuance of a building permit.

(Code 1957, §§ 10-903, 10-905--10-907; Ord. No. 232-W, § 1, 3-6-62; Ord. No. 670, § 1, 2-5-63; Ord. No. 912, § 1, 1-7-69; Ord. No. 1103/71, § 1, 12-7-71; Ord. No. 1143/72, § 1, 9-5-72; Ord. No. 1429/80, § 2, 9-16-80; Ord. No. 1530/84, § 1, 2-21-84; Ord. No. 1533/84, § 1, 3-6-84; Ord. No. 1538/84, § 1, 5-1-84; Ord. No. 1569/85, §§ 1, 2, 8-6-85; Ord. No. 1682/89, § 1, 1-3-89; Ord. No. 1742/91, § 1, 2-19-91; Ord. No. 1793/92, § 1, 11-17-92; Ord. No. 1820/94, § 1, 7-19-94; Ord. No. 1858/96, § 2, 7-16-96; Ord. No. 1904/98, § 1, 10-20-98; Ord. No. 1984/04, § 1, 5-4-04; Ord. No. 3007/16, § 1, 5/24/2016; Ord. No. 3049/21, 05-04-2021)

Sec. 7-21. Installation of central heating and central air conditioning units--Permits necessary.

It shall be unlawful for any person, firm or corporation or their agents to install any oil burner, gas burner, or any other type of central heating unit or central air conditioning unit, unless a permit for the installation has been obtained from the building department of the City of Long Beach. No permit shall be issued for the installation of any of the above mentioned units that is not listed as standard by the Fire Underwriters' Laboratories.

(Code 1957, § 12-902; Ord. No. 1146/72, § 1, 10-3-72)

Cross references: Additional requirements, fire prevention code, adopted in § 11-25; plumbing permit fees, § 21-26.

Sec. 7-22. Same--Permit fees.

The following is the schedule of the fees for permits for the installation of central heating and/or central air conditioning units:

(a) *Replacement:*

One-family house or store . . . $30.00

Two-family house . . . 50.00

Multiple dwelling having three or four apartments . . . 75.00

Multiple dwelling having more than four apartments: an additional $7.00 for each apartment in excess of four, up to a maximum total fee of $150.00.

(b) *New installations:*

The fee for the initial installation of a gas, oil or other type of central heating or central air conditioning unit shall be $60.00 for the first $1,000.00 cost of installation, plus $7.00 for each additional $1,000.00 cost of installation, or part thereof.

(c) *Increased fees.* Where construction or other work requiring a permit pursuant to this chapter was commenced prior to the issuance of a permit, the fee for such construction or other work shall be two (2) times the amount otherwise provided for in chapter 7, article II. This subsection 7-22(c) shall not apply to any permit application submitted to the building department in compliance with this chapter on or before the effective date of this section.

(Code 1957, § 12-902.1; Ord. No. 1146/72, § 2, 10-3-72; Ord. No. 1525/84, § 1, 1-17-84; Ord. No. 1743/91, § 1, 2-19-91; Ord. No. 1904/98, § 1, 10-20-98)

Sec. 7-23. Same--Approval.

(a) Dwellings hereinafter erected or dwellings in which heating units are hereinafter installed or replaced shall have an approved type of central heating system installed in a separate room with a fire resistance rating of one hour. Such room must be ventilated in a manner approved by the building commissioner.

(b) Dwellings with fuel burning heating equipment of oil, gas, hot air, electricity or other type of heat producing equipment must have a control switch within five (5) feet outside the boiler room as an emergency shut-off.

(c) No type or kind of heating equipment shall be installed without the approval of the building commissioner.

(d) Multiple dwellings shall obtain a certificate or form from the building department to be filled in by a licensed contractor, stating that the heating plant and equipment and controls have been checked and cleaned, repaired or replaced, and are in good operating condition. This certificate shall be filed with the building department by the last day of October each year.

(Code 1957, § 12-902.2; Ord. No. 1146/72, § 2, 10-3-72)

Sec. 7-24. Violation of chapter provisions; penalties; persons liable.

The violation of any provision of this chapter or the failure to comply therewith shall constitute a violation, except where another penalty is provided, punishable by a fine which shall not exceed five hundred dollars ($500.00), and for all multiple dwellings that exceed twenty-five (25) or more dwelling units, the fine shall not exceed two thousand dollars ($2,000.00) or imprisonment not exceeding fifteen (15) days, or both such fine and imprisonment, and the owner of any building, structure or part thereof, or wall, platform, staging or flooring to be used for standing or seating purposes, against which any violations of this chapter shall be placed, or shall exist, and any architect, professional engineer, builder, plumber, carpenter, mason, contractor, sub-contractor, foreman or any other person who may be employed or assist in the commission of any such violation and, who shall violate any provision of this chapter, or fail to comply therewith, or any requirement thereof or any regulation or order made thereunder, or who shall build in violation of any detailed statement of specifications or plans, submitted and approved thereunder, or of any certificate or permit issued thereunder, shall be severally liable for each and every violation and noncompliance. Each day on which a violation continues shall constitute a separate offense.

(Code 1957, § 10-1001; Ord. No. 1133/72, §§ 1, 4, 7-11-72; Ord. No 2083/13, § 1, 8/20/2013; Ord. No. 3052/21, 07-06-2021)

DIVISION 2. BUILDING DEPARTMENT*

***Cross references:** Annual inspection of signs, § 3-21.

Sec. 7-25. Created; composition.

There is hereby created the building department, which shall consist of the building commissioner and such other subordinate personnel as may be authorized by the city council.

(Code 1957, § 2-415.1)

Sec. 7-26. Office of building commissioner created; appointment.

There is hereby created the office of building commissioner, who shall be appointed by the city manager.

(Code 1957, §§ 2-415.1, 2-415.2)

Sec. 7-27. Qualifications of commissioner; removal; compensation.

No person shall be eligible for appointment as building commissioner who is not a citizen of the United States and a resident of the city. The commissioner may be removed by the city manager at any time without cause assigned. The compensation of the commissioner shall be fixed by the city council.

(Code 1957, § 2-415.3)

Sec. 7-28. Powers and duties of the commissioner.

The building commissioner shall have the following powers and duties:

(a) To issue summonses for violations of this chapter or other laws regulating building, housing, zoning, signs, sanitary, plumbing, electrical, heating, ventilating and air conditioning.

(b) To issue permits for the erection of new buildings, alterations of existing buildings within the city.

(c) To perform any other act authorized in this Code.

(d) To supervise and enforce the building, plumbing, electrical, heating, ventilating, air conditioning, zoning and sanitation provisions of this Code and other ordinances of the city.

(e) To prescribe the duties of the personnel assigned to the building department.

(Code 1957, §§ 2-415.1, 2-415.3, 2-415.4; Ord. No. 1136/72, §§ 2, 3, 8-1-72)

Secs. 7-29--7-33. Reserved.

DIVISION 3. PERMITS

Sec. 7-34. When required.

(a) Before any structure is erected, altered, modified, improved, extended or demolished, a permit shall first be procured from the building department.

(b) Ordinary repairs to buildings or structures may be made without obtaining a permit otherwise required by subsection (a), but such repairs shall not be construed to include the cutting away of any wall or any portion thereof, the removal or cutting of any beams or supports, the installation of siding or roofing, or the removal, change or closing of any stairway or required means of exit.

(Code 1957, §§ 10-203.2, 10-203.5, 10-902; Ord. No. 1431/80, § 1, 10-21-80; Ord. No. 1490/83, § 1, 2-1-83)

Sec. 7-35. Plumbing permit to be obtained in addition to construction or alteration permit.

In the event that any plumbing work is required in connection with work for which a construction or alteration permit is required by this division, the application for a plumbing permit duly prepared as provided in section 21-25 et seq., shall be filed prior to the issuance of any permit pursuant to this division.

(Code 1957, § 10-203.1; Ord. No. 25F, § 1, 3-6-62)

Sec. 7-36. Applications.

(a) *For construction or alteration permit.* For a construction or alteration permit required by this division, the owner, the lessee, the agent of either, or the architect or builder employed by such owner or lessee in connection with the proposed construction or alteration, shall submit to the commissioner a detailed statement in duplicate of the specifications, on blanks furnished by the building department, and such plans and structural detail drawings of the proposed work as the commissioner may require. The statement, constituting an application for a construction or alteration permit, shall be accompanied by a further statement, on blanks furnished by the building department, sworn to before a notary public or commissioner of deeds, giving the full name and residence of each of the owners of the building or proposed building, or structure or proposed structure, premises, wall, platform, staging or flooring, and a diagram of the lot or plot on which the proposed construction or alteration is to be done, showing the exact location of any proposed new construction and all existing buildings or structures that are to remain.

(b) *For demolition permit.* For a demolition permit required by this division, a statement, on blanks furnished by the building department, constituting a notice to demolish, shall be submitted to the commissioner by the owner, or any person authorized by the owner, giving the full name and residence of each of the owners of the building to be demolished, the name and business address of the person who is to do the work, and such other information respecting the building as the commissioner may require. The notice shall be submitted not less than forty-eight (48) hours before the work of demolition is commenced.

(c) *For permit to replace a fence, curb and/or sidewalk.* For a permit to replace a fence, curb and/or sidewalk, a markout of street lights shall be obtained by the owner from the department of public works and submitted to the building commissioner with the application for a permit.

(Code 1957, §§ 10-203.1, 10-203.2; Ord. No. 1074/89, § 1, 7-18-89)

Sec. 7-37. Amendment of application.

Nothing in this chapter shall prohibit the filing of amendments to any application for a permit required by this division at any time before the completion of the work for which the permit was sought, and such amendments, after approval, shall be made part of the application and filed as such.

(Code 1957, § 10-203.4)

Sec. 7-38. Persons eligible for construction or alteration permit.

No construction or alteration permit shall be issued pursuant to this division except to a licensed builder or mechanic.

(Code 1957, § 10-204.1)

Sec. 7-39. Bond or deposit required for construction or alteration permits to assure removal of debris.

(a) Any person who shall file an application for a construction or alteration permit required by this division, either for new construction or for substantial alterations to an existing structure, shall be required to post a deposit of two hundred dollars ($200.00) at the time of the application for the permit or, in lieu thereof, file with the commissioner an undertaking to be approved by the commissioner in the sum of two hundred dollars ($200.00), with one (1) or more corporate sureties thereon authorized to do business in the state, conditioned that all of the debris, excess building materials and rubbish will be removed by the holder of the permit upon completion of the construction or alteration, or during the course of construction thereof, within seventy-two (72) hours after being notified by the commissioner so to do; and where curbs and sidewalks have been damaged or broken by reason of such construction or alteration, the deposit or undertaking shall be conditioned that the damaged curbs and sidewalks are replaced within seventy-two (72) hours after being notified by the commissioner to do so.

(b) Any person filing applications for more than one (1) building permit per calendar year, either for new construction or for substantial alterations to existing structures, may in the month of January, and in each January thereafter, file with the commissioner a surety bond, to be approved by the commissioner, in the sum of two thousand dollars ($2,000.00), with one (1) or more corporate sureties authorized to do business in the state. The bond filed pursuant to this subsection shall cover the removal of all debris for all work done by the person for which building permits are issued pursuant to this division in a calendar year within the city, upon the same conditions established by subsection (a).

(c) In case the holder of the permit fails or refuses to comply with notification given pursuant to subsection (a), the commissioner may cause the work required by

the notification to be done and charge the expense thereof to the holder of the permit, and the right to a refund of any deposit to the extent of any such expense shall cease and terminate and the obligation of the obligors and sureties on any bond filed pursuant to subsection (a) or (b), shall be and become fixed and definite in the amount of the expense.

(Code 1957, § 10-205.9; Ord. No. 831, § 1, 1-3-67)

Sec. 7-40. Site plan approval.

In all cases where the owner files an application for a building permit with the building department for the construction or alteration of new buildings containing twelve (12) or more dwelling units in any multiple residence district, he shall simultaneously therewith file a copy of said site plan and copy of pertinent plans with the planning board. No building permit for same shall be issued by the commissioner of the building department until the planning board shall first approve the site plan of the proposed building as hereinafter set forth.

In addition thereto, the said applicant shall file with said planning board an affidavit setting forth the existence or non-existence of any restrictive covenant running with the land as set forth in said site plan.

Upon receipt by the planning board of said proposed building plans, it shall cause a public hearing to be held to consider the approval of said site plan by it. Notice of public hearing shall be published in the official newspaper of the City of Long Beach not less than fourteen (14) days prior to said hearing and the applicant shall cause notice of said hearing to be sent by certified mail, return receipt requested to all contiguous property owners as shown on the current assessment roll of the City of Long Beach, at least fourteen (14) days prior to said public hearing and an affidavit of mailing of same with return receipt shall be filed with said planning board. The term "contiguous property owners" shall be deemed to include all owners of all lands within a radius of two hundred and fifty (250) feet of the property affected by said applicant including owners of property on the opposite side of the street from subject property. The planning board shall review ingress and egress from and to all public highways to the premises subject to the approval of the appropriate municipal agency having jurisdiction of such highways, all drainage facilities, the traffic pattern within the premises, the location and placement of parking spaces, parking areas, loading areas and spaces, curbs, sidewalks, and access drive ways as may be required under any ordinance or by any municipal agency, lights and the placement of signs on the premises.

In addition thereto, the planning board shall also consider the location of the proposed structures upon the site as well as its height, length, spacing, open spaces, landscaping and all other physical features and improvements. The planning board shall approve or disapprove the said site plan and set forth its reasons for the action taken by it.

The commissioner of buildings shall issue no building permit for such purpose without first obtaining the said approval of the site plan by the planning board.

In all cases where approval of the site plan by the planning board is given, the owner shall proceed to obtain his building permit for such purpose within a period of six (6) months from the effective date of the approval of said site plan. In the event the owner fails to proceed with obtaining said building permit within said six (6) month

period, the approval of said site plan by the planning board shall automatically terminate and be deemed cancelled and annulled without notice to the owners.

(Code 1957, § 10-203.6; Ord. No. 1193/73, § 1, 12-18-73; Ord. No. 1201/74, § 1, 2-5-74)

Sec. 7-41. Fees, deposit and other requirements for demolition permit.

(a) The fee for a demolition permit shall be paid at the time the application is filed, as follows: Two hundred fifty dollars ($250.00) for a one-family or two-family house; and for all other structures, five hundred dollars ($500.00) plus four dollars ($4.00) for each one hundred (100) square feet of floor area in excess of twenty-five hundred (2500) square feet, not to exceed the total sum of one thousand dollars ($1000.00). However, no demolition fee is required if the demolition is a necessary part of an alteration for which a permit has been issued.

(b) In addition to the foregoing demolition permit fee, a fee of five hundred dollars ($500.00) shall be paid simultaneously for permanently shutting off the water and sewer lines to the premises.

(c) In addition to the foregoing fees, a deposit of three hundred fifty dollars ($350.00) shall be deposited simultaneously and retained by the city until a certificate of approval shall have been issued by the building commissioner upon the due and satisfactory completion of the work for which the demolition permit has been granted, at which time said deposit shall be returned to the applicant.

(d) Before a demolition permit may be issued, the applicant shall furnish to the building commissioner a debris bond, as described in section 7-39 of this division, in the amount of two thousand dollars ($2,000.00), and a paid liability insurance policy for demolition and site clearance, naming the city as a co-insured, in the following amounts: Bodily injury, five hundred thousand dollars ($500,000.00) per person and three million dollars ($3,000,000.00) per accident; property damage, three hundred thousand dollars ($300,000.00) per accident and one million dollars ($1,000,000.00) aggregate.

(e) In the event that the demolition shall not be duly and satisfactorily completed, and the failure of the permittee to comply with the requirements of the commissioner, the commissioner may cause such deficiencies to be corrected and the cost thereof shall be paid out of the aforesaid sum of three hundred fifty dollars ($350.00) deposited with the commissioner and the balance of such deposit shall be returned to the permittee upon the issuance of the certificate of approval.

(f) In the event that the cost of correcting the deficiencies, if any, which the permittee shall have failed to correct as aforesaid, exceeds the said deposit of three hundred fifty dollars ($350.00), the city shall assess the subject premises for the amount by which the said cost exceeds the said deposit.

(Code 1957, § 10-203.2; Ord. No. 969/70, § 1, 5-5-70; Ord. No. 1431/80, § 2, 10-21-80; Ord. No. 1858/96, § 3, 7-16-96; Ord. No. 3049/21, 05-04-2021)

Sec. 7-42. When fees not refundable.

No fees required by this division shall be refunded after a permit has been granted by reason of abandonment of the project or the revocation of the permit or for

willful violation of the provisions of this chapter.

(Code 1957, § 10-907(b); Ord. No. 912, § 1, 1-7-69)

Sec. 7-43. Approval of application and plans for construction or alteration permit.

(a) No construction or alteration permit required by this division shall be issued until the commissioner shall have first approved the application and plans submitted therefor. The commissioner shall approve or reject any application or plan, or amendment thereof, filed with him pursuant to the provisions of this division, within a reasonable time and, if approved, shall promptly issue the permit therefor.

(b) The commissioner shall determine, prior to the approval of any application for the construction, alteration or repair of any multi-family, commercial or industrial premises, whether the construction, alteration or repair work embraced in the application is of such size and complexity as to require detailed inspection by a registered architect or licensed professional engineer. In the event that the commissioner shall make a determination that a detailed inspection is required, the permit shall be so endorsed prior to issuance.

(c) Nothing in this section shall be construed to prevent the commissioner from approving and issuing a permit for the construction of part of a building or structure, when plans and detailed statements have been presented therefor, before the entire plans and detailed statements for the building or structure have been submitted or approved.

(Code 1957, §§ 10-204.1, 10-204.2; Ord. No. 253-A.23, § 1, 3-7-61)

Sec. 7-44. Place and manner of filing documents required by this division.

All applications, notices and sworn statements required by this division, and copies of the approved plans, shall be kept on file in the office of the commissioner. Applications shall be promptly docketed as received. For purposes of identification and reference, all such papers shall be marked with the block and lot number of the property to which they apply, and with the street and house number when possible.

(Code 1957, § 10-203.3)

Sec. 7-45. Execution of permits.

Each permit issued by the commissioner under the provisions of this division shall have his signature affixed thereto, but this shall not prevent the commissioner from authorizing any subordinate to affix the commissioner's signature.

(Code 1957, § 10-204.3)

Sec. 7-46. Permits to expire if work not commenced or completed within time limitation.

(a) For permits issued for the erection, alteration, modification or extension of any building or structure, work shall commence within ninety (90) days of the date of

issuance of same and shall be completed within one year of said date of issuance of the permit. If in the discretion of the building commissioner the project shall require a period beyond one year to complete, the same may be granted initially. A project shall be deemed abandoned if work is not commenced within the specified time limitation, or if the project is not completed prior to the expiration of the permit.

(b) When any permit is issued for demolition purposes, work shall commence within ten (10) days of the date of issuance of such permit and shall be completed within thirty (30) days of the date of issuance of the permit. The demolition shall be deemed abandoned if work is not commenced within the specified time limitation, or if the said demolition is not completed prior to the expiration of said thirty (30) days.

(c) Whenever a project has been deemed abandoned, as aforesaid, it shall be unlawful to continue work thereon except upon the issuance of a supplementary permit setting forth an extension of time. However, if a written application is filed outlining the reasons necessitating an extension of time, together with the required fee, the commissioner of buildings may, for good cause, allow a reasonable extension of time and grant the issuance of a supplementary permit.

(d) Each supplementary permit issued for an extension of time shall be limited to a period of ninety (90) days or less, except that each extension granted on a permit for demolition work shall be limited to a period of fifteen (15) days or less.

(e) Where application is made to complete any project within the above time limitation, it will be necessary to obtain a supplementary permit for an additional period, but in no event shall this completion period extend beyond said time limitation.

(f) The fee required for each extension request submitted for review shall be twenty-five (25) per cent of the total fees charged for the issuance of such permit, but shall not be less than seventy-five dollars ($75.00) nor exceed one thousand dollars ($1,000.00). The required fee shall be paid upon filing the application for an extension permit. Any fees paid for an extension shall be nonrefundable and shall not be applicable to, nor deductible from, any other fees associated with such permit.

(Code 1957, § 10-204.4; Ord. No. 1444/81, § 1, 2-3-81; Ord. No. 1654/88, § 1, 2-16-88; Ord. No. 1858/96, § 4, 7-16-96)

Sec. 7-47. Conformity with plans and diagrams submitted with application.

(a) The construction or alteration of any building, structure, platform, staging or flooring shall be in accordance with the approved detailed statement of specifications and plans, for which the construction or alteration permit was issued pursuant to this division, or any approved amendment thereof. The commissioner may require a certified copy of the approved plans, together with the permit, to be kept at all times on the premises from the commencement of the work to the completion thereof.

(b) The location of any new building or structure, or of any extension to an existing building or structure, shown on the diagram filed as a part of the application for a construction or alteration permit, or as shown on any approved amendment

thereof, shall be strictly adhered to. It shall be unlawful to reduce or diminish the area of any plot or lot, a diagram of which has been filed with the application, and which has been used as the basis for the permit, unless the building or structure for which the permit was issued complies in all respects with the requirements of this Code and other ordinances of the city for buildings or structures located on the plot of such diminished area; however, this shall not apply to any case in which the lot area is reduced by reason of any street opening or widening or other public improvement.

(Code 1957, §§ 10-204.5, 10-204.6)

Sec. 7-48. Apprenticeship requirements.

(a) This Section shall be applicable to, and the obligations set forth herein shall operate as a condition precedent for, the issuance of all building permits (issued after the effective date of this ordinance) for construction of buildings of at least 100,000 square feet, irrespective of the date on which the building permit applications were filed by the developer, its partners, general contractors, contractors, subcontractors, affiliates, successors and/or assigns.

(b) Prior to the issuance of a building permit for such projects, the applicant shall demonstrate that any general contractor, contractor or subcontractor for such project, must have apprenticeship agreements for the type and scope of work to be performed, which have been registered with and approved by the New York State Commissioner of Labor, in accordance with Article 23 of the New York Labor Law.

(1) The City of Long Beach hereby requires any contractor or subcontractor, who is a party to, or working under, a construction contract, to be a participant in good standing of a qualified apprenticeship program that is registered with and approved by the New York State Department of Labor and to have apprenticeship agreements, as evidenced by valid Certificates of Completion which are specifically identified as pertaining to the trade(s) and/or job titles(s) called for within the construction contract [appropriate for the type and scope of work to be performed, which have been registered with, and approved by, the New York State Commissioner of Labor in accordance with Article 23 of the New York Labor Law, anything in § 103 of the New York General Municipal Law to the contrary notwithstanding].

(2) All contractors must submit to the City, Certificates of Completion showing that they, or their sponsor, graduated at least one apprentice from a state approved and registered apprenticeship program, in the trade and/or job title called for within the construction contract, within a time period immediately preceding the bid date of such project, the length of said time period to be calculated by adding twenty-four months to the specific trade's program length as set forth in the New York State Prevailing Wage Schedule. If a contractor is a signatory to a sponsor, the contractor must submit to the City a letter from the sponsor verifying its signatory status.

(3) It shall be a contractor's responsibility to submit the required Certificates of Completion as part of any bid submitted in connection with a

construction contract and to provide to the Building Department the identity of apprentices who have graduated from their apprenticeship program.

(4) If a contractor utilizes a subcontractor on a construction contract, the contractor shall submit Certificates of Completion showing that the subcontractor or the subcontractor's sponsor graduated at least one apprentice from a state approved and registered apprenticeship program, in the trade and/or job title called for within the construction contract, within a time period immediately preceding the bid date of such project, the length of said time period to be calculated by adding twenty-four months to the specific trade's program length as set forth in the New York State Prevailing Wage Schedule. The contractor must submit these certificates at a time designated by the Building Department and these forms must be received prior to a subcontractor beginning work under the contract. If the subcontractor is a signatory to a sponsor, the contractor must submit to the City a letter from the sponsor verifying the signatory status.

(5) It shall be the responsibility of the Building Commissioner to verify that a contractor or subcontractor is a participant in a state approved and registered apprenticeship program and to include the submitted Certificates of Completion as an attachment to the final contract, work order or other document memorializing the award of work to the contractor.

(6) It shall be the responsibility of the Building Commissioner to designate an individual within the Building Department who shall be responsible for specifically identifying within a construction contract the trade(s) and/or job title(s) necessary to perform the construction contract and verifying the validity of Certificates of Completion and including same as an attachment to the final contract, work order or other document memorializing the award of work to the contractor or subcontractor.

(c) The determination of compliance with this section shall be made and certified by the building commissioner. An aggrieved party may appeal such determination in an Article 78 proceeding to the Supreme Court, Nassau County, filed within thirty (30) days of filing of the determination by the building commissioner with the city clerk, or mailing of such determination to the applicant, whichever is later.

(d) The City Council of the City of Long Beach shall be empowered to grant, by a majority vote, a waiver from the provisions of section 7-48, upon a petition submitted by the applicant demonstrating good cause why said provisions are impractical, unduly harsh, or economically detrimental to the city. Any such petition shall be filed with the city clerk and shall be placed before the city council as an agenda item, within forty-five (45) days of the filing.

(Ord. No. 2026/08, § 1, 3-18-08; Ord. no. 2095/15, 5/19/2015)

Secs. 7-49--7-52. Reserved.

Sec. 7-48. Apprenticeship requirements.

DIVISION 4. CERTIFICATES OF OCCUPANCY*

***Cross references:** Fee for certificate of occupancy, § 7-20.

Sec. 7-53. When required.

(a) *New buildings.* No building hereafter erected shall be occupied or used, in whole or in part, for any purpose whatever until a certificate of occupancy shall have been issued therefor by the commissioner certifying that the building conforms substantially to the approved plans and specifications and requirements of this chapter applying to buildings of its class and kind.

(b) *Buildings altered after January 1, 1959.* No building altered after January 1, 1959, which was vacant during the progress of the work of alteration, shall be occupied or used, in whole or in part, for any purpose whatever, until a certificate of occupancy shall have been issued therefor by the commissioner certifying that the work for which a construction or alteration permit was issued pursuant to this article has been completed substantially in accordance with the plans and specifications and the provisions of this chapter applying to such alteration; and when the occupancy or use of a building has continued during the work of alteration, the occupancy or use of the building shall not continue for more than thirty (30) days after completion of the alteration unless a certificate of occupancy shall have been issued.

(c) *Existing buildings.* Nothing in this section shall prevent the continuance of the present occupancy and use of any now existing building, except as may be specifically prescribed by this chapter or as may be necessary for the safety of life or property. Upon written request from the owner, the commissioner shall issue a certificate of occupancy for any now existing building, certifying, after verification by inspection, the occupancy or use of the building, provided that at the time of issuing the certificate there are no notices of violation or other notices or orders pending in the building department.

(Code 1957, §§ 10-205.1--10-205.3)

Sec. 7-54. Effect of change of occupancy.

No change of occupancy or use shall be made in any building or part thereof, erected or altered after January 1, 1959, that is not consistent with the last issued certificate of occupancy for the building. In case of any building existing on January 1, 1959, no change of occupancy that would bring it under some special provision of this chapter shall be made unless a certificate of occupancy is issued by the commissioner certifying that the building conforms to the provisions of this chapter with respect to buildings altered after January 1, 1959, for the proposed new occupancy and use.

(Code 1957, § 10-205.4)

Sec. 7-55. Temporary certificate of occupancy.

(a) Upon request of the owner or the authorized representative, the building commissioner may issue a temporary certificate of occupancy for a period of ninety (90) days, for the whole or part of a building, provided that the temporary occupancy, or use of building would not in any way jeopardize life or property in same.

(b) If, in the discretion of the building commissioner, the building shall require the extension of said temporary certificate of occupancy beyond said ninety (90) days, the building commissioner may grant such extension for an additional ninety (90) days, provided that the temporary occupancy or use, would not in any way jeopardize life or property in said building.

(Code 1957, § 10-205.5; Ord. No. 1682/89, § 2, 1-3-89; Ord. No. 3052/21, 07-06-2021)

Sec. 7-56. Conditions precedent to the issuance of certificates of occupancy.

(a) No certificate of occupancy shall be issued until the owner, the lessee, or the agent of either, or the architect or builder employed by the owner or lessee in connection with the construction or alteration, files with the commissioner at the time of the written application for the certificate of occupancy, an affidavit based on personal knowledge certifying to the actual cost of the completed construction or completed alteration and, in addition, until there has been paid to the city the proper fee for a construction or alteration permit in accordance with the actual cost of the construction or alteration, as provided for in this article.

(b) In the event that the commissioner has determined, in approving the application and plans for a construction or alteration permit required by this article, that the construction, alteration or repair work embraced in the permit is of such size and complexity as to require detailed inspection by a registered architect or licensed professional engineer, there shall be filed, in addition to any other requirement for a certificate of occupancy, an affidavit of a registered architect or licensed professional engineer, based on personal knowledge, certifying that the registered architect or licensed professional engineer has continuously inspected the work during its course and that the work is in all particulars in accordance with the approved plans on file with the building department.

(Code 1957, § 10-205.8; Ord. No. 253-A.23, § 1, 3-7-61)

Sec. 7-57. Issuance and filing.

Certificates of occupancy shall be issued within ten (10) days after written application therefor, if the building at the date of the application shall be entitled thereto. A record of all certificates shall be kept in the building department, and copies shall be furnished on request to any person having proprietary interest in the building affected.

(Code 1957, § 10-205.7)

Sec. 7-58. Contents of certificate of occupancy.

In addition to the certification, when required by this division, as to compliance

with approved plans and specifications and provisions of this chapter, all certificates of occupancy shall state the purposes for which the building may be used in its several parts, the maximum permissible live loads on the several floors, the number of persons that may be accommodated in the several stories, in case such number is limited by any provision of this chapter or the approved specifications, and all special stipulations of the permit issued pursuant to this article, if any.

(Code 1957, § 10-205.6)

Sec. 7-59. Establishment of occupancy classifications not otherwise provided for.

In any case any building is not specifically provided for by this chapter, or where there is any uncertainty as to its classification, its status shall be fixed by the commissioner.

(Code 1957, § 10-206)

Secs. 7-60--7-64. Reserved.

Division 5. COMPLAINTS.

Sec. 7-65. Harassment.

If a complaint is made to the Building Department, anonymously or otherwise, by telephone, by mail, by electronic means or by transmitting or delivering any form of written communication about a property and/or the property owner, the tenant or any other person, and if such reporting of said complaint is believed to have been made; and that property owner, tenant or any other person in turn communicates with the person they believed to have made the complaint, with an intent to harass, annoy, threaten or alarm the property owner, tenant or any other person, it shall be a violation and upon conviction thereof, shall be subject to a fine of not less than two hundred fifty dollars ($250.00) or by imprisonment for a period not to exceed fifteen (15) days or by both such fine and imprisonment.

(Ord. No. 2039/09, 6/2/2009)

Secs. 7-66--7-70. Reserved.

ARTICLE III. FIRE LIMITS AND CONSTRUCTION THEREIN

Sec. 7-71. Fire limits established.

The fire limits of the city shall include all sections of the city designated in the zoning ordinance as Residence J Districts, Residence K Districts, Residence L Districts, Residence-Business A Districts, Business A Districts, Business B Districts, Business C Districts and Industrial Districts.

(Code 1957, § 10-301; Ord. No. 253-A.25, § 1, 9-5-61; Ord. No. 908, § 1, 12-3-68; Ord. No. 1522/83, § 1, 12-20-83; Ord. No. 3052/21, 07-06-2021)

Sec. 7-72. Residential construction within the fire limits.

A one-family or a two-family house may be erected within the fire limits with walls of frame and brick veneer, or of frame and stucco, or other approved fire-resistant material, if approved fire-resistant materials are used in connection therewith, and if there shall be side yards, rear yards and front yards of at least seven (7) feet, and no projection of any kind over any such yard. In the event that the yard requirements of the zoning ordinance for the zoning district in which such one-family or two-family house is situated are more stringent than the aforesaid yard requirements of this section, the yard requirements of the zoning ordinance for the said zoning district shall prevail.

(Code 1957, § 10-301; Ord. No. 253-A.25, § 1, 9-5-61; Ord. No. 1522/83, § 2, 12-20-83)

Sec. 7-73. When frame buildings may be built within the fire limits.

If any block situated within the fire limits has ninety per cent (90%) of the buildings erected thereon constructed of frame, any vacant lot situated on the block may have a frame building placed or constructed thereon, if the building is not more than two (2) stories and basement in height, and is to be used for residential purposes only.

(Code 1957, § 10-306)

Sec. 7-74. Oceanfront buildings.

Any building constructed or rebuilt upon property along the oceanfront, east or west of the Boardwalk, may be built upon pilings, even though located within fire limits; however, the exterior walls of the building shall be fire-retarding.

(Code 1957, § 10-207)

Sec. 7-75. Enlarging combustible structures.

Except as otherwise specifically provided in this chapter, no existing frame, wood or other combustible structure shall be enlarged within the fire limits of the city, except in conformity with the provisions of this chapter with respect to new structures.

(Code 1957, § 10-302)

Sec. 7-76. Repair of damaged or deteriorated buildings made of combustible materials.

(a) Within the fire limits of the city, any existing frame, wood or other combustible structure which, in the judgment of the commissioner, may be damaged from any cause whatsoever to an amount greater than one-half (1/2) of the value thereof exclusive of the foundations or may be in need of structural repairs to an amount greater than one-half (1/2) of its value, exclusive of the foundations, shall not be repaired or rebuilt, but shall be taken down.

(b) In case the owner of any structure subject to subsection (a) shall be dissatisfied with the decision of the commissioner as to the extent of the damage or required repairs, the extent of the damage or required repairs shall be determined by competent surveyors, one (1) appointed by the commissioner, one (1) by the owner of the structure and, in case these two (2) do not agree, one (1) selected by them jointly. The report of the surveyors shall be reduced to writing, when signed by any two (2) of them, shall be conclusive. No building the subject of survey shall be in any manner repaired, altered or rebuilt until after the decision of the surveyors shall have been rendered.

(Code 1957, §§ 10-303.1, 10-303.2)

Sec. 7-77. Construction of certain frame buildings for which a permit was issued prior to January 1, 1959.

(a) Nothing contained in this article shall prevent the erection or completion of a frame structure for which a construction or alteration permit has been lawfully issued pursuant to this chapter on January 1, 1959, within such portions of the fire limits as were not at that time included within the fire limits of the city; however, the work on such structure shall be diligently prosecuted so that the structure shall be completed within twelve (12) months after January 1, 1959.

(b) In case any structure subject to subsection (a) shall not be completed within twelve (12) months after January 1, 1959, the holder of the construction or alteration permit therefor shall be deemed to have forfeited all rights and privileges granted by the permit, and the uncompleted building or structure shall be taken down and removed within sixty (60) days after the date of the forfeiture of the permit.

(Code 1957, § 10-305)

Secs. 7-78--7-87. Reserved.

ARTICLE IV. DANGEROUS BUILDINGS

Sec. 7-88. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Nuisance shall mean and embrace public nuisances known at common law or in equity jurisprudence, and whatever is dangerous to human life or detrimental to health and whatever dwelling is overcrowded or is not provided with adequate means of ingress and egress or is not sufficiently supported, ventilated, sewered, drained or cleaned and whatever renders the air or human food or drink unwholesome are also severally in contemplation of this ordinance, nuisances. All such nuisances are hereby declared illegal.

Occupied or *occupancy* shall be construed as though followed by the words "or intended, arranged or designed to be occupied."

Owner shall be construed to include the record owner of the title to any premises and also anyone exercising the rights of ownership therein at the time of the making of any order with respect thereto by the city and shall include a lessee of the entire building or structure, other than a single family private dwelling, or a mortgagee in possession.

Persons interested shall be construed to include the owner and all other persons interested in the property to which the words refer.

Repair shall mean any alteration, structural change or the performance of any act necessary or requisite to make any building or structure or any part thereof found by the city to be a dangerous building within the purview of this article, comply with and conform to the requirements of law.

(Code 1957, § 7-117.1)

Sec. 7-89. Defects which shall render a building dangerous.

All buildings or structures which have any or all of the following defects shall be deemed dangerous buildings:

(a) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.

(b) Those which have been damaged or have deteriorated so as to have become, in the judgment of the council, dangerous to the life, health, morals or general welfare of the occupants thereof or to the people of the city. Any building or structure which, exclusive of the foundations, shows thirty-three and one-third per cent (33 1/3%) or more of damage to or deterioration of the supporting member or members or fifty per cent (50%) or more damage to or deterioration of the nonsupporting enclosing or outside walls or coverings shall be deemed a dangerous building.

(c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to

be reasonably safe for the purpose used.

(d) Those having inadequate facilities for ingress or egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

(e) Those which have parts thereof which are so attached that they may fall and injure the occupants thereof, members of the public, or property.

(f) Those buildings existing in violation of any provision of this chapter or any provision of this Code relating to fire prevention, or any other ordinance of the city.

(g) Those buildings and structures whose exteriors have been defaced, marred or otherwise subjected to graffiti, as defined in section 71 of the Charter of the City of Long Beach.

(h) Those buildings and structures which would constitute nuisances at common law or in equity jurisprudence.

(Code 1957, § 7-118; Ord. No. 1819/94, § 1, 6-7-94)

Sec. 7-90. Fire department and police department employees to report dangerous buildings.

The employees of the fire department of the city and the employees of the police department of the city shall make a report in writing to the commissioner of all buildings and structures which in the discharge of their respective duties are found or may be suspected to be dangerous buildings. The reports shall be delivered to the commissioner within twenty-four (24) hours of the discovery of the dangerous building by any employee of the fire department or police department.

(Code 1957, § 7-127)

Sec. 7-91. Declared to be a public nuisance; to be vacated.

(a) All dangerous buildings within the terms of this article are declared to be public nuisances and shall be repaired or removed, as herein provided.

(b) All dangerous buildings shall be vacated forthwith.

(Code 1957, § 7-121)

Sec. 7-92. Remedies.

The following remedies shall be applied in substance by the commissioner and the council in ordering the removal or repair of a dangerous building:

(a) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired. In all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered removed.

(b) In all cases where a dangerous building is a fire hazard existing or

erected in violation of any provision of this Code or other ordinance of this city, or statute of the state, it shall be ordered removed unless the hazard or violation can be cured, in which event the building shall be ordered repaired.

(c) Any structures or part of a structure or premises that from any cause may at any time become dangerous or unsafe structurally or a fire hazard shall be repaired and secured or taken down and removed.

(d) A vacant, unguarded building, or which has an open door or window shall be deemed dangerous or unsafe as a fire hazard within the meaning of this article.

(Code 1957, § 7-120)

Sec. 7-93. Duties of the commissioner with respect to dangerous buildings.

The commissioner, with respect to dangerous buildings, shall:

(a) Inspect or cause to be inspected as often as may be necessary to insure the enforcement of this article, all buildings in the city for the purpose of determining whether any conditions exist which render a building dangerous, and whether any conditions exist therein not in compliance with the standards of this article.

(b) Inspect any building, wall or structure about which a complaint is filed by a person to the effect that the building, wall or structure is or may be existing in violation of the terms of this article.

(c) Notifying in writing the owner of any building found by him to be a dangerous building or not conforming to the standards set forth in this article that he shall repair or remove said building in accordance with the terms of the notice and this article, or otherwise comply with the standards set forth in this article, within a reasonable time to be fixed by the notice.

(d) The commissioner shall set forth in the notice provided for in subsection (c) a description of the building or structure, or parts thereof, deemed to violate the provisions of this article; a statement of the particulars in which the building is dangerous, or fails to comply with the standards set forth in this article; and a direction requiring compliance with the standards set forth in this article, or that the building or structure be put in such condition as to comply with the terms of this article or that the building or structure be removed.

(e) Report to the council any noncompliance with the notice provided for in subsections (c) and (d).

(f) Appear at all hearings conducted by the council and testify as to the condition of the dangerous building.

(g) With the assistance of the corporation counsel, to do such acts and take such proceedings as may be required to bring about the repair or removal of buildings as ordered by the council, and take such steps as may be

required by the provisions of this article to cause the removal or repair of any building which is dangerous and to cause the assessment of all costs and expenses incidental thereto against the land on which the dangerous building is located.

(h) Firmly affix a notice in a conspicuous place in front of all dangerous buildings immediately after the issuance of the notice provided for in subsections (c) and (d), as follows:

> "This building has been found to be a dangerous building by the council of the City of Long Beach. This notice is to remain on this building until it is repaired or removed or made to comply with the direction which has been given the owner. It is unlawful to remove this notice until such direction has been complied with."

(Code 1957, § 7-122)

Sec. 7-94. Action by the council.

The council, with respect to dangerous buildings, shall:

(a) Upon receipt of a report of the building commissioner provided for in subsection (e) of section 7-93, give written notice to the persons interested in the building to appear before it on a certain date within fifteen (15) days of the date of the notice, to show cause why compliance with the standards set forth in this article should not be made, or why the building or structure reported to be a dangerous building should not be repaired or removed, in accordance with a statement of particulars set forth in the commissioner's notice provided for by subsections (c) and (d) of section 7-93.

(b) Hold a hearing and hear such testimony as the persons interested in the building may offer relative to the alleged dangerous building.

(c) Make a written finding of facts as to whether or not the building in question is a dangerous building within the meaning of this article.

(d) Issue an order commanding the persons interested in the building to repair or remove any building found to be a dangerous building. The order shall fix the time when compliance therewith shall commence, which shall be not more than ten (10) days after the making thereof and shall fix a reasonable time within which such compliance shall be completed. The council may, in its discretion, and upon good cause shown, extend the time for full compliance with the order.

(e) If the owner fails to comply with the order provided for in subsection (d) of this section, or any extension thereof, the council may direct the commissioner to cause the dangerous building or structure to be repaired or removed under the standards established by this article; however, before proceeding to repair or to remove or cause the repair or removal of any dangerous building, the commissioner may, with the advice and assistance of the corporation counsel, proceed in accordance with the provisions of this article and institute appropriate proceedings before a court of competent jurisdiction to obtain an order or judgment directing or

authorizing the repair or removal. The costs of the repair or removal and all costs and expenses incurred by the city in connection with the proceedings shall be a charge against the land on which the building stands or did stand, as a municipal lien. The costs shall be added to the tax roll as an assessment or shall be levied as a special tax against the land upon which the building stands or did stand.

The lien of the city or any expense incurred in respect to the repair or removal of any dangerous building shall have priority over all other liens and encumbrances except taxes, assessments and water rates. Except with respect to the lien imposed for expenses incurred in respect of the repair or removal of any dangerous building, nothing in this section shall be construed as placing upon the property a lien which supersedes or is superior to the lien of any mortgage in respect of any building and property executed and recorded prior to the existence of the lien.

(f) Report to the corporation counsel the names of all persons not complying with the order provided for in subsection (d) of this section.

(g) The council may in the first instance and without service of any notice by the commissioner, give notice to the persons interested in any building which they have reason to believe may be a dangerous building, to appear before it on a date certain within fifteen (15) days from the date of the notice, to show cause why the building or structure specified in the notice should not be repaired or removed or otherwise made to comply with the provisions of this article. The notice shall contain the same particulars as are required by subsection (d) of section 7-93. Upon the return day of the notice, the council shall thereupon proceed in the same manner as prescribed in subsections (b), (c), (d), (e) and (f) of this section.

(h) The council may from time to time, and upon due notice, vacate, modify or amend any order made by it pursuant to this section, and may either on its own motion or upon the motion of any person interested, reopen any proceedings in which it has made an order, for the purpose of taking further testimony and upon such rehearing render any decision and make any order consistent with the provisions of this article that it shall deem just and equitable.

(Code 1957, § 7-123)

Sec. 7-95. Inspections made at request of the owner.

(a) The owner of any building used in whole or in part for human occupancy, may request the commissioner to cause an inspection of the building to be made, whereupon the commissioner shall cause an inspection of the building to be made and make a report thereon to the council. If the report shall disclose that the building is not a dangerous building, the council may direct the commissioner to issue a certificate to such effect to the applicant. The issuance of the certificate is not to be construed as a finding that such building is not a dangerous building

beyond the date of issuance of the certificate. Should, however, the inspection disclose the building or structure to be a dangerous building, the council shall direct the commissioner to give written notice to the applicant to appear before it on a date certain within fifteen (15) days from the date of the notice, and shall thereupon proceed in the same manner as prescribed in section 7-93, subsections (b), (c), (d), (e) and (f); the notice shall contain the same particulars as are required by section 7-93, subsection (d).

(b) No owner who has applied for inspection pursuant to subsection (a) of this section, shall be prosecuted under this article, with respect to any building for which inspection has been requested, unless he fails to comply with the order of the council made pursuant to subsection (a) of this section.

(Code 1957, § 7-128)

Sec. 7-96. Time for compliance with article.

Compliance with the provisions of this article, unless otherwise expressly provided in this article, shall be made within the time designated by the council.

(Code 1957, § 7-130)

Sec. 7-97. Review of determination.

Any person deeming himself aggrieved by any order or direction of the council may have the determination reviewed by the supreme court in the manner prescribed by Article 78 of the Civil Practice Law and Rules.

(Code 1957, § 7-129)

Sec. 7-98. Manner of service of notices and orders.

All notices or orders required to be served pursuant to this article may be served by delivering to and leaving a copy of the notice or order with the person entitled to it, or sent by registered mail to the person, or to the last known address of the person or to the last address of the person as shown by the records of the tax department or in the office of the county clerk. Whenever the service is made by registered mail, a copy of the notice or order shall also be posted in a conspicuous place on the front of the dangerous building to which it relates. The mailing and posting shall be deemed adequate service.

(Code 1957, § 7-125)

Sec. 7-99. City officers and employees not to be personally liable under this article.

No officer, agent or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit brought against any officer, agent or employee of the city as a result of any act required or permitted in the discharge of his duties under this article shall be defended by the corporation counsel until the final determination of the proceedings therein.

(Code 1957, § 7-126)

Sec. 7-100. Violations of this article; penalties.

(a) The owner of any dangerous building who knowingly permits the dangerous building to be used for human occupancy, or who shall fail to comply with any order of the council to repair, remove or cause to be vacated the dangerous building or otherwise make it comply with the standards set forth in this article, shall be guilty of a violation and upon conviction thereof shall be fined not exceeding ten thousand dollars ($10,000.00) for each offense.

(b) For the purposes of subsection (a) of this section, each day during which there is a failure to comply with the provisions of this article or of any order issued by the council shall constitute a separate offense.

(c) In any prosecution under this section, the fact that any dangerous building or any part of a dangerous building was used for human occupancy shall be presumptive evidence that it was so used with the knowledge and consent of the owner.

(d) Any person removing the notice provided pursuant to this article shall be guilty of a violation and upon conviction thereof shall be fined not exceeding two hundred fifty dollars ($250.00) for each offense.

(e) All penalties collected under this article shall be the property of the city, but no provision of this article shall be construed to prohibit the city from creating and maintaining out of such penalties a separate revolving fund, not to exceed the sum of ten thousand dollars ($10,000.00), out of which payment may be made for repairs or removals made or caused to be made pursuant to this article.

(Code 1957, § 7-124; Ord. No. 3052/21, 07-06-2021)

Sec. 7-101. Application of remedies.

The several remedies provided in this article with respect to the repair or removal of dangerous buildings or the assessment and recovery of the cost of repair or removal thereof incurred by the city, and any other remedies legal or equitable available, shall be deemed cumulative and any and all thereof may be pursued concurrently or consecutively. The pursuit of any remedy or remedies shall not be construed as an election, nor a waiver of the right to pursue any or all of the others.

(Code 1957, § 7-131)

Secs. 7-102--7-111. Reserved.

ARTICLE V. BOARDWALK BUILDINGS

Sec. 7-112. Generally.

The construction of new buildings and extension of present buildings on lots abutting the Boardwalk in the area between the easterly side of New York Avenue and the easterly line of the city shall comply with the New York State Building Construction Code and to the standards established in this article.

(Code 1957, § 10-307)

Sec. 7-113. Exterior walls.

All exterior walls of any buildings or extensions erected after January 1, 1959, on lots abutting the Boardwalk in the area between the easterly side of New York Avenue and the easterly line of the city are to be of fire-retardant construction.

(Code 1957, § 10-307.1)

Sec. 7-114. Pilings.

All extensions to buildings or structures existing on January 1, 1959, which extensions will abut the Boardwalk, and all new buildings or structures erected after January 1, 1959, within the area subject to this article are to be on pile foundations conforming to the requirements of the state building construction code or, in the alternative, for buildings between New York Avenue and Neptune Boulevard not exceeding one (1) story above the Boardwalk, foundations for the south, east and west walls shall be of concrete, reinforced with steel rods to a depth of six (6) feet and not less than eighteen (18) inches wide at the top.

(Code 1957, § 10-307.2)

Sec. 7-115. Minimum height of walls abutting Boardwalk.

No building to be erected along the Boardwalk after January 1, 1959, within the area subject to this article shall have the wall which abuts the Boardwalk less than seven (7) feet higher than the elevation of the top of the flooring of the Boardwalk, which distance shall be measured in a vertical plane from the top of the Boardwalk flooring to the lowest point of the top of the wall; between New York Avenue and Neptune Boulevard, and east of Neptune Boulevard no wall which abuts the Boardwalk shall be less than sixteen (16) feet higher than the elevation of the top of the flooring of the Boardwalk.

(Code 1957, § 10-307.3)

Sec. 7-116. Approval of plans for construction or alteration.

All plans for proposed buildings or alterations and extensions to buildings existing on January 1, 1959, shall be filed with the commissioner and shall be approved as required by this chapter.

(Code 1957, § 10-307.4)

Sec. 7-117. Buildings not to have a "flat-roofed" appearance.

No proposed building or extension to buildings existing on January 1, 1959, which extensions will abut on the Boardwalk, shall be approved by the commissioner where the plans would give the new building or proposed extension or alteration a "flat-roofed" effect when viewed from the Boardwalk.

(Code 1957, § 10-307.4)

Sec. 7-118. Projections.

The projection of cornices, ornamental trims, awnings, marquees, mouldings, belt courses, lintel sills, pediments and similar projections of a decorative character from a wall abutting the Boardwalk shall be permitted up to sixteen (16) inches, subject to restrictions as provided in section 7-147.

(Code 1957, § 10-307.5)

Sec. 7-119. Fire escapes for buildings existing on January 1, 1959.

Each building existing on January 1, 1959, which is not provided with exit facilities as prescribed in the state building code for new buildings and in which the exit facilities are inadequate for the safety of its occupants, shall be provided with such good and sufficient fire escapes, stairways, or other means of egress in case of fire as shall be directed by the commissioner; and the commissioner shall have the authority to direct fire escapes and other means of egress to be provided upon and within such buildings or any of them, except as may be otherwise provided by law.

(Code 1957, § 10-308)

Secs. 7-120--7-129. Reserved.

ARTICLE VI. PRIVATE GARAGES

Sec. 7-130. When private garage may be attached or underneath a dwelling.

A private garage may be located beneath or attached to a dwelling provided the following requirements are rigidly complied with:

(a) If constructed of frame, the private garage shall be lined throughout with Sheetrock, plasterboards, or metal lath with three-quarters (3/4) of an inch of cement plaster well pointed up, and the floor shall be of concrete construction.

(b) The garage shall set back from the street building line, the side lot line, and the rear lot line at least the distance specified by the zoning ordinance of the city for dwellings in the use district in which the garage is located.

(Code 1957, § 10-309(A); Ord. No. 657, § 1, 8-7-62)

Sec. 7-131. Detached garages.

A detached private garage may be located adjacent to a dwelling either on the same lot or upon an adjoining, contiguous, or abutting lot, provided the following requirements are rigidly complied with:

(a) All detached garages shall be separated a distance of at least eight (8) feet from the dwelling it serves unless the garage is veneered with either cement, stucco or brick, or is of fireproof construction, in which latter case it may be separated at a distance of at least four (4) feet from the dwelling.

(b) The garage shall be so placed that all parts of the garage shall be located on the rear half of the lot and at least four (4) feet from the side and rear lot lines, unless veneered with cement, stucco or brick, or is of fireproof construction, in which latter case it may be within two (2) feet of the side and rear lot lines.

(c) No detached private garage shall be more than one (1) story in height.

(Code 1957, § 10-309(B), (C); Ord. No. 657, § 1, 8-7-62)

Secs. 7-132--7-141. Reserved.

ARTICLE VII. PROJECTIONS BEYOND LOT LINES

Sec. 7-142. Generally.

Except as otherwise provided in this article, no part of any building erected after January 1, 1959, or of any enlargement of a building existing on January 1, 1959, shall project beyond the building line so as to encroach upon a public street.

(Code 1957, § 10-401.1)

Sec. 7-143. Alteration to existing buildings.

No alteration or enlargement shall be made to any part of a building existing on January 1, 1959, nor projecting beyond the lot line, except in conformity with the provisions of this article so far as it affects new construction.

(Code 1957, § 10-403)

Sec. 7-144. Projections to be removable.

Any part of a building permitted to project beyond the building line under the provisions of this article shall be so constructed that its removal may be made at any time without causing the building or any part thereof to become structurally unsafe.

(Code 1957, § 10-401.2)

Sec. 7-145. Projecting footings.

No part of any building erected or enlarged after January 1, 1959, that is necessary for the structural safety of the building or an enlargement thereof shall project beyond the building line so as to encroach upon a public street or public space, but this shall not be deemed to prohibit the projections beyond the building line to the extent of not more than twelve (12) inches for the footings of street walls; however, such projecting parts of footings shall be not less than four (4) feet below the sidewalk level.

(Code 1957, § 10-401.3)

Sec. 7-146. Permissible projections.

(a) Marquees and canopy awnings may extend over the sidewalk in connection with entrances to theaters, hotels and multiple dwellings if erected in compliance with section 3-143 et seq.

(b) When permission is obtained from the council, areas, meaning the open spaces below the ground level immediately outside the building and enclosed by substantial walls, may project beyond the building line not more than five (5) feet; however, each such area shall be covered over at the street level by an approved grating of metal or other incombustible material of sufficient strength to carry safely the pedestrian street traffic.

(c) Balustrades of an ornamental character, including the sills and brackets on which

they rest, may project beyond the building line not more than twenty-two (22) inches in any case; however, every part the balustrade shall be not less than ten (10) feet above the sidewalk.

(d) Mouldings, belt courses, cornices, lintel sills, pediments and similar projections of a decorative character may project beyond the building line not more than ten (10) inches in any case.

(e) The main cornice, meaning thereby a molded projection at or near the top of the street wall, may project beyond the building line not more than five (5) feet in any case, if the main cornice is not less than twelve (12) feet above the sidewalk at any point.

(f) Fire escapes and balconies to fire towers or other required exits, constructed of steel or other incombustible material, when required on the fronts of buildings, may project beyond the building line not more than five (5) feet, but no part of a fire escape or balcony shall be less than ten (10) feet above the sidewalk; however, nothing in this section shall prevent the use of movable ladders or stairs to the sidewalk, so arranged that they are not less than ten (10) feet above the sidewalk except when in actual use.

(g) Vaults, entirely below the sidewalk level, shall not extend beyond the curbline. Openings in the roofs of vaults, between the building line and the curb, shall be provided with substantial covers, flush in all parts with the sidewalk, of incombustible material, and so constructed and maintained as to be normally kept closed and when open shall be thoroughly safeguarded to prevent persons from slipping thereon.

(h) Hose connections for interior fire extinguishing equipment and fresh air inlets for plumbing systems may project through a street wall not more than twelve (12) inches beyond the building line, except that where there is an angle formed by the street wall and a check piece or the base of a column, pilaster or ornamental projection, provided as in this section specified, they may be so located that no part extends more than fifteen (15) inches from either side of such angle.

(Code 1957, § 10-401.4; Ord. No. 663, § 1, 10-2-62)

Sec. 7-147. Authority of the commissioner of public works to promulgate additional rules and regulations.

Nothing in this article shall be deemed to abridge the powers and duties of the commissioner of public works to adopt additional rules as may be necessary with respect to the construction or disposition of parts of buildings projecting beyond the building line. The commissioner of public works may, when deemed necessary or desirable, fix further restrictions as to the extent of projections beyond the building line, but no projections greater than specified in this article shall be permitted.

(Code 1957, § 10-401.5)

Sec. 7-148. Authority of the council to revoke permission to construct projecting structures.

Any permission, expressed or implied, to construct a part of a building so as to

project beyond the building line under the provisions of this article, is revocable by the council at will.

(Code 1957, § 10-402)

Sec. 7-149. Projections existing on January 1, 1959.

Such parts of buildings which on January 1, 1959, project beyond the building line, may be maintained as constructed until their removal is directed by the council; however, nothing contained in this article shall be deemed to abridge the right of the city, or any of its officers, to continue any action for the removal of any unauthorized projection beyond the building line or for the collection of any penalty incurred in connection therewith.

(Code 1957, § 10-404)

Sec. 7-150. Article not to circumvent orders of the council.

Nothing in this article shall be deemed to authorize any projection beyond the building line on those streets on which the removal of projections has been or may be directed by the council except in conformity to resolutions by the council.

(Code 1957, § 10-405)

Secs. 7-151--7-160. Reserved.

ARTICLE VIII. CONSTRUCTION EXCAVATIONS

Sec. 7-161. Protection of excavations; duty of sublateral support.

Until provision for permanent support has been made, all excavations shall be properly guarded and protected so as to prevent the excavation from becoming dangerous to life or limb and shall be sheetpiled, braced or shored by the person causing the excavation to be made, where necessary, to prevent the adjoining earth from caving in.

(Code 1957, § 10-501.1)

Sec. 7-162. When retaining wall required.

When an excavation is made on any lot, and provision for the support of adjoining earth is not otherwise made in accordance with law, the person making the excavation or causing it to be made shall, at his own cost and expense, except as provided in this article, build a retaining wall to support the adjoining earth. The retaining wall shall be carried to the height of the adjoining earth, and shall be properly protected by coping.

(Code 1957, § 10-501.2)

Sec. 7-163. Lateral support; support of neighboring walls.

(a) *When an excavation exceeds four feet.* Whenever an excavation is intended to be, or shall be, carried to the depth of more than four (4) feet below the curb, the person causing the excavation to be made shall at all times, if afforded the necessary license to enter upon the adjoining land, and not otherwise, at his own expense, preserve and protect from injury any wall, building or structure, the safety of which may be affected by the excavation, and support the structure by proper foundations, whether the wall, building or structure is down more or less than four (4) feet below the curb. If the necessary license is not accorded to the person making the excavation, then it shall be the duty of the owner refusing to grant the license to make the wall, building or structure safe, and to support the structure by proper foundations; and when necessary for that purpose, the owner shall be permitted to enter upon the premises where the excavation is to be made.

(b) *When excavation does not exceed four feet.* If an excavation is not intended to be, or shall not be, carried to a depth of more than four (4) feet below the curb, the owner of any wall, building or structure, the safety of which may be affected by said excavation, shall preserve and protect the structure from injury, and support the structure by proper foundations; when necessary for that purpose, he shall be permitted to enter upon the premises where the excavation is to be made. In case the wall, building or structure is so located that the curb to which it is properly referred is at a higher level than the curb to which the excavation is referred, such part of any necessary underpinning or foundation as may be due to the difference in curb levels, shall be made and maintained at the joint expense of the person causing the excavation to be made and the owner of the

wall, building or structure.

(Code 1957, § 10-501.3)

Sec. 7-164. Support of party walls.

In case an adjoining party wall is intended to be used by the person causing an excavation to be made, and the party wall is in good condition and sufficient for the use of the existing and proposed buildings, the person causing the excavation to be made shall, at his own expense, preserve the party wall from injury and support it by proper foundations so that the party wall shall be and remain practically as safe as before the excavation was commenced.

(Code 1957, § 10-501.4)

Sec. 7-165. Authority of the commissioner to cause work required by this article to be done; costs.

If the person whose duty it shall be under the provisions of this article to properly guard and protect an excavation, or to prevent adjoining earth from caving in, or to preserve or protect any wall, building or structure from injury, shall neglect or fail to do so after twenty-four (24) hours from receiving notice from the commissioner to perform the duties imposed by this article, the commissioner may enter upon the premises and employ such labor, and furnish such materials and take such steps as, in his judgment, may be necessary to prevent the adjoining earth from caving in, or to make the wall, building or structure safe and secure, or to prevent the structure from becoming unsafe or dangerous, at the expense of the person whose duty it is to keep the structure safe and secure. The city, or any person doing the work or any part thereof, by direction of the commissioner, may bring and maintain an action against the person upon whom the duty is placed by this article, to recover the value of the work done and materials furnished in and about the premises, in the same manner as if he had been employed to do the work by the person.

(Code 1957, § 10-501.5)

Sec. 7-166. Altering Grade of Property.

An application for permission to raise or lower the grade of property in excess of one foot shall be deemed to be denied by the Commissioner of Buildings and may be appealed to the Zoning Board of Appeals. However, it shall be within the discretion of the Commissioner of Buildings to permit a property owner to raise or lower the grade of their property up to one foot.

(Ord. No. 2040/09, 6/16/2009)

Secs. 7-167--7-175. Reserved.

ARTICLE IX. FENCES

Sec. 7-176. Defined.

The term "fence" as used in this article shall include but shall not be limited to hedges, foliage, shrubbery, trees, bushes, objects, articles or structures so placed, planted, erected or arranged as to form a substantially continuous wall, barrier, obstruction or screen.

(Code 1957, § 10-601(a); Ord. No. 814, § 1, 10-4-66)

Sec. 7-177. Manner of determination of height.

The height of a fence shall be measured from curb level to the highest point of the fence.

(Code 1957, § 10-601(b); Ord. No. 814, § 1, 10-4-66)

Sec. 7-178. Location.

Fences may be placed or maintained only inside the lines of lots.

(Code 1957, § 10-601(c); Ord. No. 814, § 1, 10-4-66)

Sec. 7-179. Height limitations generally.

Except as otherwise provided in this article or when permitted by the board of zoning appeals pursuant to chapter 20, article II hereof [section 20-11 et seq.], fences on front yards shall not exceed four (4) feet in height; fences on side yards shall not exceed six (6) feet in height; and fences on rear yards shall not exceed eight (8) feet in height.

(Code 1957, § 10-601(d); Ord. No. 814, § 1, 10-4-66; Ord. No. 1794/92, § 2, 12-1-92)

Sec. 7-180. Sight obstructions at intersections.

Except as otherwise provided in this article or when permitted by the zoning board of appeals pursuant to Chapter 20, Article II hereof and provided for in Appendix A, Zoning, of the Code of Ordinances, fences on the front and side yards of a corner lot shall not exceed two and one-half (2 1/2) feet in height for a distance of twenty (20) feet from the point of the curb where street lines intersect, nor shall they be placed or maintained in such a place, position or manner as to obscure the vision of a driver of a vehicle approaching the street intersection.

(Code 1957, § 10-601(e); Ord. No. 232-U, § 1, 3-3-59; Ord. No. 814, § 1, 10-4-66; Ord. No. 1824/94, § 1, 11-1-94)

Sec. 7-181. Finished side to face street.

Any fence abutting on a street shall be so erected and constructed that the finished side faces the street.

(Code 1957, § 10-601(f); Ord. No. 814, § 1, 10-4-66)

Sec. 7-182. Chain link fences around certain institutions.

A fence located on premises used for religious, educational, charitable or hospital purposes may be erected inside the lot lines to a height not to exceed six (6) feet, subject to the approval of the city council. The fence shall be constructed of metal chain link material only.

(Code 1957, § 10-601(h); Ord. No. 232-V, § 4, 7-5-60)

Secs. 7-183--7-192. Reserved.

ARTICLE X. ELEVATORS

Sec. 7-193. Scope of article.

This article shall apply to all elevator installations made subsequent to January 1, 1959, except:

(a) Installations in factories and mercantile establishments.

(b) Dumbwaiters.

(c) Sidewalk-type elevators.

(Code 1957, § 10-704)

Sec. 7-194. When permit required; application.

(a) No elevator, or any other device used for carrying persons or things upward or downward, used in connection with a building or structure, shall hereafter be installed or altered, until the owner or lessee, or the agent, architect or contractor or any of them, shall have first obtained a permit therefor from the commissioner. The applicant for the permit shall submit to the commissioner an application accompanied by plans and drawings showing the proposed construction and mode of operation. Repairs to elevators may be made without filing a permit application, except when the repairs include a change in the type of elevator or its motive power, or when any change in safety devices or operating mechanism is made.

(b) When it becomes necessary for structural changes of any nature to an elevator in use, an application embodying the proposed changes shall be filed with the city engineer, who shall approve the application before permit for alteration work of any nature may be issued.

(Code 1957, § 10-701)

Sec. 7-195. Design requirements generally.

(a) All elevators shall be tested and certified by a casualty company of recognized standing, and authorized to do business in the state.

(b) The manufacturer of the elevator shall fasten in a conspicuous place in the car a metal sign designating the weight in number of pounds which the elevator can carry.

(c) Elevators shall be designed to sustain in all their parts a load of at least seventy-five (75) pounds per square foot for passenger elevators, or fifty (50) pounds per square foot for freight elevators having not more than one hundred (100) square feet of platform area.

(d) Car gates and shafts and doors shall be equipped with approved devices that will prevent the operation of the car until the car gate is closed and the shaft doors are closed and locked, and an approved emergency release shall be provided in the car within easy reach of the operator.

(e) The car gate shall be so arranged that it cannot be opened while the car is in motion.

(f) The shaft doors shall be so arranged that they cannot be opened after the car leaves the landing, except in emergency cases, and then only by a special key which must be provided and kept in a glass front cabinet at the lowest landing.

(g) Car gates and shaft doors shall be so located that they can at all times be fully controlled by the elevator operator without leaving the car operating device, and shall be of the sliding type.

(h) Elevators shall be provided with safety devices to bring the car to a stop in case of excessive speed of the car or failure of the driving power, ropes or cables.

(i) Each passenger elevator car shall have a trapdoor in the top of such size as to afford easy egress for passengers, but not less than eighteen (18) inches in its least dimension, nor less than four hundred (400) square inches in area.

(j) All installations shall be provided with substantial spring, pneumatic or oil buffers for the car and the counterweights.

(k) In the case of a full automatic push button elevator, a push button shall be provided to operate an alarm bell, for the purpose of notifying the person in charge of the premises, in case the car becomes stopped in the shaft from any cause.

(l) The distance between the faces of the shaft doors and the car gates shall be as small as possible with a maximum of three and one-half (3 1/2) inches.

(Code 1957, § 10-701)

Sec. 7-196. Additional requirements for self-service elevators.

For self-service elevators, the following requirements are hereby established in addition to other requirements for elevators contained in this article:

(a) The hatchway in front of the opening to the elevator car should be flush at all points of the car travel. If in the opinion of the city engineer, the construction [is] such that the hatchway in front of the elevator opening cannot be made flush, a solid panel door should be installed on the car in place of folding gates.

(b) The distance between the inside of the hatchway door and the car gate or panel should not exceed three and one-half (3 1/2) inches.

(c) Electromechanical interlocks should be installed on all hatch door openings.

(d) Electric contacts shall be installed on all car gates or car door panels; these should be so regulated that the elevator cannot be operated unless the gate or door panel is within two (2) inches of being closed.

(e) An emergency release switch shall be installed in connection with the hatchway door interlock circuit, except for automatic elevators.

(f) An emergency operating switch should be installed in connection with car gates or door panels, except for automatic elevators.

(g) Each self-service elevator located in a multiple dwelling shall be provided with a viewing mirror, meeting the following requirements:

(1) Mirrors shall be made of polished metal.

(2) Mirrors shall be of such size and so located on the car wall opposite the car entrance so that a person entering the elevator may have a complete view of the interior of the car. It shall not be necessary to provide a view of the floor and ceiling.

(3) The mirror shall be so located as not to interfere with or endanger passengers in the elevator.

(4) Mirrors shall be mounted and secured so that they cannot be readily removed by the public.

(h) Elevators that are self-service in operation shall be equipped with all the features required by this section; elevators which do not embody all the requirements of this section shall be manually operated.

(Code 1957, § 10-702; Ord. No. 1008/70, § 1, 12-8-70)

Sec. 7-197. Maintenance and inspections.

(a) The owner, lessee or agent of any structure in which an elevator is installed shall be responsible for the safe operation and proper maintenance of the elevator, and shall cause periodic inspections to be made of all parts of the elevator and of all equipment appurtenant thereto, which periodic inspection shall be made at intervals not exceeding six (6) months, by a casualty company of recognized standing authorized to do business in the State of New York, or by a reputable elevator maintenance company, or by a duly authorized person acting on behalf of such a casualty company or such an elevator maintenance company.

(b) The owner, lessee or agent of any structure in which an elevator is installed shall cause an inspection record card, on a form approved by the commissioner, to be permanently posted and erected in the motor control room, which card shall show the name of the casualty company or elevator maintenance company, or the person acting on behalf of such casualty company or such elevator maintenance company, the date of last inspection, remarks as to condition and the signature of the inspector.

(c) The commissioner shall be authorized to require an inspection of any elevator to be made at any time and to require a certificate of inspection to be furnished. It shall be the duty of any owner, lessee or agent of any structure in which an elevator is installed to cause such request to be complied with expeditiously. The commissioner may, if he deems it necessary, order the discontinuance of operation of any elevator until the certificate of inspection has been furnished as requested. It shall be unlawful to permit operation, or to operate, or to use any elevator until a certificate of inspection has been furnished upon any such request.

(Code 1957, § 10-703(1--3); Ord. No. 1383/78, § 1, 10-4-78)

Sec. 7-198. Public liability insurance.

The owner, lessee or agent of any structure in which an elevator is installed shall obtain and maintain public liability insurance in connection with the operation of any elevator in a sum of at least ten thousand dollars ($10,000.00) for injury to any one (1) person, and at least twenty thousand dollars ($20,000.00) for injuries to more than one (1) person; and the owner, lessee or agent shall furnish the commissioner with a certificate of insurance issued by the insurance carrier and evidence of the continued maintenance of the insurance.

(Code 1957, § 10-703(4))

Sec. 7-199. Records to be kept by the commissioner; notice of compliance with law.

The commissioner shall keep a permanent record of all elevators in all structures in the city, together with a record of inspections made, the dates thereof, the names and addresses of all companies engaged in the inspection and maintenance of elevators, and all information concerning liability insurance in connection with the operation of elevators. It shall be the duty of the commissioner to cause to be posted in each elevator car a notice on a form to be provided by him that all provisions of law have been complied with; it shall be unlawful to permit the operation of any elevator, or to operate or to use any elevator unless the notice is posted in the car of the elevator.

(Code 1957, § 10-703)

Secs. 7-200--7-209. Reserved.

ARTICLE XI. MOVING BUILDINGS

Sec. 7-210. Permit required.

No building shall be moved from one place to another place within the city, or from within the city to without the city, or from without the city to within the city, without a permit therefor from the building commissioner obtained as provided in this article and without compliance with all requirements established in this article.

(Code 1957, §§ 6-401, 6-402, 10-304.2, 10-304.3)

Sec. 7-211. Application for permit; approval; fee.

A person desiring a permit required by this article shall make written application therefor to the building commissioner, which application shall contain a statement of the kind and character of the building proposed to be moved, its dimensions, the materials out of which it is constructed, a description of the route over which it is proposed to move the building and a description of the means to be employed in moving such building. The application may be approved by the building commissioner and, when granted, the applicant shall thereupon pay to the city treasurer the same fee as if the house in question were being erected in the city.

(Code 1957, § 6-402)

Sec. 7-212. Contents of permit.

A permit issued pursuant to this article shall describe the route to be taken in moving the building and the length of time which may be taken for the work.

(Code 1957, § 6-402)

Sec. 7-213. Bond.

Before the permit required by this article shall be effective, the applicant therefor shall file with the building commissioner a bond running to the city in a sum to be fixed by the city council, with one (1) or more sureties thereon to be approved by the building commissioner, and conditioned that the applicant will conform to all requirements relating thereto which are now, or may be hereafter, established by the city council, and that he will promptly fill all basements left open as a result of moving, leave the vacated premises in a safe and sanitary condition, and repair and make good, to the satisfaction of the city council, any and all damage to any pavement, sidewalk, crosswalk, hydrant, street, alley or other property done or caused by himself, his servants or employees, in moving any building, or in connection with the moving thereof, and that he will immediately indemnify and save harmless the city against any and all liability for damages, costs or expenses arising, or which may arise in favor of any person by reason of any negligence on his part, or on account of his servants or employees in connection with the moving of any building or the use of any public street or ground for that purpose, and to the effect that he will pay all damages to the city or others which may be caused by the moving of said building.

(Code 1957, § 6-403)

Sec. 7-214. Observance of fire limits.

No frame, wood or other combustible structure shall be moved from outside the fire limits established in this chapter to within the fire limits.

(Code 1957, §§ 6-404, 10-304.1)

Sec. 7-215. Care of other persons' property.

Nothing in any permit granted pursuant to this article shall be construed as authorizing the holder thereof to break, injure or move any telegraph, telephone or electric light poles, or electric lines, wires, or in any way injure shade trees or other property without permission from the owner or owners thereof.

(Code 1957, § 6-405)

Sec. 7-216. Obstructing streets.

No building or any part of a building shall be allowed to stand still in any public street or on any public ground in the city for more than twenty-four (24) consecutive hours.

(Code 1957, § 6-406)

Sec. 7-217. Warning lights.

It shall be the duty of the holder of a permit granted pursuant to this article, to maintain red lights on each corner of the building being moved, during the period commencing one-half (1/2) hour before sunset and ending one-half (1/2) hour after sunrise, while a building is being moved on any public street or on any public ground in the city.

(Code 1957, § 6-407)

Sec. 7-218. Observance of routes.

A building shall be moved only through the streets and public places designated in the permit issued pursuant to this article.

(Code 1957, § 6-408)

Sec. 7-219. Penalty.

Any person, firm or corporation violating any of the provisions of this article or failing to comply with any of the provisions thereof shall be deemed a violation, and shall, upon conviction thereof be subject to a fine of not exceeding two hundred fifty dollars ($250.00) or by imprisonment for a period not exceeding fifteen (15) days, or both such fine and imprisonment.

(Code 1957, § 6-409; Ord. No. 1133/72, § 1, 7-11-72)

Secs. 7-220--7-224. Reserved.

ARTICLE XII. FLOOD HAZARD ZONES*

***Editor's note:** Ord. No. 1876/97, § 1, adopted April 1, 1997, amended the Code by repealing former Art. XII, §§ 7-225--7-233, in its entirety, and added a new Art. XII, §§ 7-225--7-230. Former Art. XII pertained to similar subject matter, and derived from Ord. No. 1350/78, adopted February 14, 1978; Ord. No. 1637/87, adopted October 6, 1987; and Ord. No. 1804/93, adopted August 17, 1993.

Charter references: Department of planning and development, § 131 et seq.; department of public works, § 170 et seq.; department of buildings and property conservation, § 292 et seq.

Cross references: Building code, Ch. 7; civil defense, Ch. 9; housing and property rehabilitation and conservation code, Ch. 13; planning and zoning generally, Ch. 20; water and sewers, Ch. 25; zoning, App. A.

State law references: Participation in flood insurance program, Environmental Conservation Law, § 36-0101 et seq.

Sec. 7-225. Statutory authorization and purpose, objectives and definitions.

a) ***Findings***. The City Council of the City of Long Beach finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the City and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this article is adopted.

b) ***Statement of Purpose***. It is the purpose of this article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(4) control filling, grading, dredging and other development which may increase erosion or flood damages;

(5) regulate the construction of flood barriers which will unnaturally divert

flood waters or which may increase flood hazards to other lands, and;

(6) qualify and maintain for participation in the National Flood Insurance Program.

c) ***Objectives.*** The objectives of this article are:

(l) to protect human life and health;

(2) to minimize expenditure of public money for costly flood control projects;

(3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) to minimize prolonged business interruptions;

(5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

(6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(7) to provide that developers are notified that property is in an area of special flood hazard; and,

(8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

d) ***Definitions.*** Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this article or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or l00-year floodplain. For purposes of this article, the term “special flood hazard area (SFHA)” is synonymous in meaning with the phrase “area of special flood hazard.”

Sec. 7-225. Statutory authorization and purpose, objectives and definitions.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone Vl-V30, VE, VO or V.

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(l) the overflow of inland or tidal waters;

(2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or **"flooding"** also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood- related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or **"Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground

surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

(1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) by an approved state program as determined by the Secretary of the Interior or

(b) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the Building Commissioner or his/her appointed representative to administer and implement this article by granting or denying development permits in accordance with its provisions.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of l929, the North American Vertical Datum of 1988 (NAVD 88), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Sec. 7-225. Statutory authorization and purpose, objectives and definitions.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or **"100-year flood"** has the same meaning as "Base Flood".

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

"Principally above ground" means that at least fifty-one (5l%) percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

(1) built on a single chassis;

(2) four hundred (400) square feet or less when measured at the largest horizontal projections;

(3) designed to be self-propelled or permanently towable by a light duty truck; and

(4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 7-227(f) of this article.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing,

excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this article which permits construction or use in a manner that would otherwise be prohibited by this article.

(Ord. No. 1876/97, § 1, 4-1-97,Ord. No. 2042/09, 7/20/2009)

Sec. 7-226. General provisions.

(a) ***Lands to which this Article applies***. This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Long Beach.

(b) ***Basis for establishing the areas of special flood hazard.*** The areas of special flood hazard for the City of Long Beach, Community Number 365338, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map Panel Numbers:

36059C0304G, 36059C0306G, 36059C0307G, 36059C0308G, 36059C0309G

whose effective date is September 11, 2009, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

(2) A scientific and engineering report entitled "Flood Insurance Study, Nassau County, New York, All Jurisdictions" dated September 11, 2009.

The above documents are hereby adopted and declared to be a part of this article. The Flood Insurance Study and/or maps are on file with the Building Department at Long Beach City Hall, 1 West Chester Street, Long Beach, New York.

(c) ***Interpretation and conflict with other laws.*** This article includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this article are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

(d) ***Severability.*** The invalidity of any section or provision of this article shall not invalidate any other section or provision thereof.

(e) ***Penalties for non-compliance.*** No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this article and any other applicable regulations. Any infraction of the provisions of this article by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars ($250.00) or imprisoned for not more than fifteen (l5) days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this article for which the developer and/or owner has not applied for and received an approved variance under Section 7-232 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

(f) ***Warning and disclaimer of liability.*** The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City or any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this article or any administrative decision lawfully made there under.

Sec. 7-226. General provisions.

(Ord. No. 1876/97, § 1, 4-1-97; Ord. No. 1880/97, § 1, 4-15-97; Ord. No. 1881/97, § 1, 5-6-97, Ord. No. 2042/09, 7/20/2009)

Sec. 7-227. Administration.

(a) ***Designation of the local administrator.*** The Building Commissioner or his/her duly appointed representative is hereby appointed Local Administrator to administer and implement this article by granting or denying floodplain development permits in accordance with its provisions.

(b) ***Purpose of floodplain development permit.*** A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 7-226(b), without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

(c) ***Fees.*** There shall be no fee charged with the permit application.

(d) ***Application for a permit.*** The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

(1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permitee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

(2) The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1-V30 or VE, or Zone V if base flood elevation data are available. Upon completion of the lowest floor, the permitee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

(3) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permitee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

(4) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 7-228(g), Utilities.

(5) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 7-228(j), Non-residential structures (except coastal high hazard areas).

(5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 7-226(b), when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

(7) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

(8) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either fifty (50) lots or five (5) acres.

(9) In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, designs and specifications, certified by a licensed professional engineer or architect, for any breakaway walls in a proposed structure with design strengths in excess of twenty (20) pounds per square foot.

(10) In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, for
all new and substantial improvements to structures, floodplain development permit applications shall be accompanied by design plans and specifications, prepared in sufficient detail to enable independent review of the foundation support and connection components. Said plans and specifications shall be developed or reviewed by a licensed professional engineer or architect, and shall be accompanied by a statement, bearing the signature of the architect or engineer, certifying that the design and methods of construction to be used are in accordance with accepted standards of practice and with all applicable provisions of this article.

(e) ***Duties and responsibilities of the local administrator.*** Duties of the Local Administrator shall include, but not be limited to the following:

Sec. 7-227. Administration.

(1) ***Permit application review.*** The Local Administrator shall conduct the following

permit application review before issuing a floodplain development permit:

a. Review all applications for completeness, particularly with the requirements of Section 7-227(d), Application for a permit, and for compliance with the provisions and standards of this article.

b. Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 7-228, Construction Standards and, in particular, sub-Section 7-228(c), Subdivision proposals.

c. Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require
the applicant to submit additional technical analyses and data necessary to
complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 7-228, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

d. Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

(f) ***Use of other flood data.***

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 7-227(d)(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this article.

(2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the

areas of special flood hazard, for the purposes of this article.

(g) ***Alteration of watercourses.***

(1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.

(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(h) ***Construction stage.***

(1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for one hundred eighty (180) consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) In Zones V1-V30 and VE, and also Zone V if base flood elevation data are available, upon placement of the lowest floor of a new or substantially improved structure, the permit holder shall submit to the Local Administrator a certificate of elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns). The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. An elevation certificate must also be submitted for a recreational vehicle if it remains on a site one hundred eighty (180) consecutive days or longer (unless it is fully licensed and ready for highway use).

(3) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

(i) ***Inspections.*** The Local Administrator and/or the developer's engineer or

architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

(j) ***Stop work orders.***

(1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 7-226(e) of this article.

(2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 7-226(e) of this article.

(k) ***Certificate of occupancy.***

(1) In areas of special flood hazard, as determined by documents enumerated in Section 7-226(b), it shall be unlawful to occupy or to permit the use or
occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this article.

(2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 7-227(i), Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

(l) ***Information to be retained.***

The Local Administrator shall retain and make available for inspection, copies of the following:

(1) Floodplain development permits and certificates of compliance;

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 7-227(h)(1) and 7-227(h)(2), and whether or not the structures contain a basement;

(3) Floodproofing certificates required pursuant to sub-section 7-227(h)(1), and whether or not the structures contain a basement;

(4) Variances issued pursuant to Section 7-232, Variance Procedures; and,

(5) Notices required under sub-section 7-227(g), Alteration of Watercourses.

(Ord. No. 1876/97, § 1, 4-1-97, Ord. No. 2042/09, 7/20/2009)

Sec. 7-228. Construction standards.

(a) ***General Standards.*** The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 7-226(b).

(b) ***Coastal High Hazard Areas.*** The following requirements apply within Zones V1-V30, VE and V:

(1) All new construction, including manufactured homes and recreational vehicles on site 180 days or longer and not fully licensed for highway use, shall be located landward of the reach of high tide.
(2) The use of fill for structural support of buildings, manufactured homes or recreational vehicles on site 180 days or longer is prohibited.
(3) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

(c) ***Subdivision Proposals.*** The following standards apply to all new subdivision proposals
and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(1) Proposals shall be consistent with the need to minimize flood damage;

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

(d) ***Encroachments.***

(1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(a) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

(b) the Local Administrator of the City of Long Beach agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 7-226(b), no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(a) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in <u>any</u> increase in flood levels during occurrence of the base flood, or,

(b) the Local Administrator of the City of Long Beach agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City for all costs related to the final map revisions.

(e) ***Standards for all structures.***

(1) *Anchoring*. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(f) ***Construction materials and methods.***

(1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are

available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(a) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

(b) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

(4) Within Zones V1-V30 and VE, and also within Zone V if base flood elevation are available, new construction and substantial improvements shall have the space below the lowest floor either free from obstruction or constructed with non-supporting breakaway walls, open wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The enclosed space below the lowest floor shall be used only for parking vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts are subject to the design requirements for breakaway walls.

(g) ***Utilities.***

(1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(3) New and replacement sanitary sewage systems shall be designed to

minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(h) ***Residential structures (except coastal high hazard areas).***

(1) ***Elevation.*** The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 7-228(c), Subdivision Proposals and 7-228(d), Encroachments, and Section 7-228(e), Standards for all structures.

(a) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.

(b) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

(c) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 7-226(b) (at least two feet if no depth number is specified).

(d) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

(i) ***Residential structures (coastal high hazard areas).*** The following standards, in addition to the standards in sub-sections 7-228(b), Coastal high hazard areas and 7-228(c), Subdivision Proposals, and Section 7-228(e), Standards for all structures, apply to new and substantially improved residential structures located in areas of special flood hazard shown as Zones V1-V30, VE or V on the community's Flood Insurance Rate Map designated in Section 7-226(b).

(1) ***Elevation***. New construction and substantial improvements shall be elevated on pilings, columns or shear walls such that the bottom of the lowest horizontal structural member supporting the lowest elevated floor (excluding columns, piles, diagonal bracing attached to the piles or columns, grade beams, pile caps and other members designed to either withstand storm action or break away without imparting damaging loads to the structure) is elevated to or above two feet above base flood elevation so as not to impede the flow of water.

(2) ***Determination of loading forces.*** Structural design shall consider the effects of wind and water loads acting simultaneously during the base flood on all building components.

(a) The structural design shall be adequate to resist water forces that would occur during the base flood. Horizontal water loads considered include inertial and drag forces of waves, current drag forces, and impact forces from waterborne storm debris. Dynamic uplift loads shall also be considered if bulkheads, walls, or other natural or man-made flow obstructions could cause wave runup beyond the elevation of the base flood.

(b) Buildings shall be designed and constructed to resist the forces due to wind pressure. Wind forces on the superstructure include windward and leeward forces on vertical walls, uplift on the roof, internal forces when openings allow wind to enter the house, and upward force on the underside of the house when it is exposed. In the design, the wind should be assumed to blow potentially from any lateral direction relative to the house.

(c) Wind loading values used shall be those required by the building code.

(3) ***Foundation standards.***

(a) The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse or lateral movement due to the effects of wind and water pressures acting simultaneously on all building components. Foundations must be designed to transfer safely to the underlying soil all loads due to wind, water, dead load, live load and other loads (including uplift due to wind and water).

(b) Spread footings and fill material shall not be used for structural support of a new building or substantial improvement of an existing structure.

(4) ***Pile foundation design.***

(a) The design ratio of pile spacing to pile diameter shall not be less than 8:1 for individual piles (this shall not apply to pile clusters located below the design grade). The maximum center-to-center spacing of

wood piles shall not be more than 12 feet on center under load bearing sills, beams, or girders.

(b) Pilings shall have adequate soil penetration (bearing capacity) to resist the combined wave and wind loads (lateral and uplift) associated with the base flood acting simultaneously with typical structure (live and dead) loads, and shall include consideration of decreased resistance capacity caused by erosion of soil strata surrounding the piles. The minimum penetration for foundation piles is to an elevation of 5 feet below mean sea level (msl) datum if the BFE is +10 msl or less, or to be at least 10 feet below msl if the BFE is greater than +10 msl.

(c) Pile foundation analysis shall also include consideration of piles in column action from the bottom of the structure to the stable soil elevation of the site. Pilings may be horizontally or diagonally braced to withstand wind and water forces.

(d) The minimum acceptable sizes for timber piles are a tip diameter of 8 inches for round timber piles and 8 by 8 inches for square timber piles. All wood piles must be treated in accordance with requirements of EPEE-C3 to minimize decay and damage from fungus.

(e) Reinforced concrete piles shall be cast of concrete having a 28-day ultimate compressive strength of not less than 5,000 pounds per square inch, and shall be reinforced with a minimum of four longitudinal steel bars having a combined area of not less than 1% nor more than 4% of the gross concrete area. Reinforcing for precast piles shall have a concrete cover of not less than 1 1/4 inches for No. 5 bars and smaller and not less than 1 1/2 inches for No. 6 through No. 11 bars. Reinforcement for piles cast in the field shall have a concrete cover of not less than 2 inches.

(f) Piles shall be driven by means of a pile driver or drop hammer, jetted, or augered into place.

(g) Additional support for piles in the form of bracing may include lateral or diagonal bracing between piles.

(h) When necessary, piles shall be braced at the ground line in both directions by a wood timber grade beam or a reinforced concrete grade beam. These at grade supports should be securely attached to the piles to provide support even if scoured from beneath.

(i) Diagonal bracing between piles, consisting of 2-inch by 8-inch (minimum) members bolted to the piles, shall be limited in location to below the lowest supporting structural member and above the stable soil elevation, and aligned in the vertical plane along pile rows perpendicular to the shoreline. Galvanized steel rods (minimum diameter 1/2 inch) or cable type bracing is permitted in any plane.

Sec. 7-228. Construction standards.

(j) Knee braces, which stiffen both the upper portion of a pile and the beam-to-pile connection, may be used along pile rows perpendicular and parallel to the shoreline. Knee braces shall be 2-by-8 lumber bolted to the sides of the pile/beam, or 4-by-4 or larger braces framed into the pile/beam. Bolting shall consist of two 5/8- inch galvanized steel bolts (each end) for 2-by-8 members, or one 5/8-inch lag bolt (each end) for square members. Knee braces shall not extend more than 3 feet below the elevation of the base flood.

(5) ***Column foundation design.***

(a) Masonry piers or poured-in-place concrete piers shall be internally reinforced to resist vertical and lateral loads, and be connected with a movement-resisting connection to a pile cap or pile shaft.

(6) ***Connectors and fasteners.***

(a) Galvanized metal connectors, wood connectors, or bolts of size and number adequate for the calculated loads must be used to connect adjoining components of a structure. Toe nailing as a principal method of connection is not permitted. All metal connectors and fasteners used in exposed locations shall be steel, hot-dipped galvanized after fabrication. Connectors in protected interior locations shall be fabricated from galvanized sheet.

(7) ***Beam to pile connections.***

(a) The primary floor beams or girders shall span the supports in the direction parallel to the flow of potential floodwater and wave action and shall be fastened to the columns or pilings by bolting, with or without cover plates. Concrete members shall be connected by reinforcement, if cast in place, or (of precast) shall be securely connected by bolting and welding. If sills, beams, or girders are attached to wood piling at a notch, a minimum of two (5/8)-inch galvanized steel bolts or two hot-dipped galvanized straps 3/16 inch by 4 inches by 18 inches each bolted with two 1/2 inch lag bolts per beam member shall be used. Notching of pile tops shall be the minimum sufficient to provide ledge support for beam members without unduly weakening pile connections. Piling shall not be notched so that the cross section is reduced below 50%.

(8) ***Floor and deck connections.***

(a) Wood 2- by 4-inch (minimum) connectors or metal joist anchors shall be used to tie floor joists to floor beams/girders. These should be installed on alternate floor joists, at a minimum. Cross bridging of all floor joists shall be provided. Such cross bridging may be 1- by 3-inch members, placed 8 feet on-center maximum, or solid bridging of same depth as joist at same spacing.

(b) Plywood should be used for subflooring and attic flooring to provide good

torsional resistance in the horizontal plane of the structure. The plywood should not be less than (3/4)-inch total thickness, and should be exterior grade and fastened to beams or joists with 8d annular or spiral thread galvanized nails. Such fastening shall be supplemented by the application of waterproof industrial adhesive applied to all bearing surfaces.

(9) ***Exterior wall connections.***

(a) All bottom plates shall have any required breaks under a wall stud or an anchor bolt. Approved anchors will be used to secure rafters or joists and top and bottom plates to studs in exterior and bearing walls to form a continuous tie. Continuous 15/32-inch or thicker plywood sheathing—overlapping the top wall plate and continuing down to the sill, beam, or girder--may be used to provide the continuous tie. If the sheets of plywood are not vertically continuous, then 2-by-4 nailer blocking shall be provided at all horizontal joints. In lieu of the plywood, galvanized steel rods of 1/2-inch diameter or galvanized steel straps not less than 1 inch wide by 1/16 inch thick may be used to connect from the top wall plate to the sill, beam, or girder. Washers with a minimum diameter of 3 inches shall be used at each end of the 1/2-inch round rods. These anchors shall be installed no more than 2 feet from each corner rod, no more than 4 feet on center.

(10) ***Ceiling joist/rafter connections.***

(a) All ceiling joists or rafters shall be installed in such a manner that the joists provide a continuous tie across the rafters. Ceiling joists and rafters shall be securely fastened at their intersections. A metal or wood connector shall be used at alternate ceiling joist/rafter connections to the wall top plate.

Gable roofs shall be additionally stabilized by installing 2-by-4 blocking on 2-foot centers between the rafters at each gable end. Blocking shall be installed a minimum of 8 feet toward the house interior from each gable end.

(11) ***Projecting members.***

(a) All cantilevers and other projecting members must be adequately supported and braced to withstand wind and water uplift forces. Roof eave overhangs shall be limited to a maximum of 2 feet and joist overhangs to a maximum of 1 foot. Larger overhangs and porches will be permitted if designed or reviewed and certified by a registered professional engineer or architect.

(12) ***Roof sheathing.***

(a) Plywood, or other wood material, when used as roof sheathing, shall not be less than 15/32 inch in thickness, and shall be of exterior sheathing grade or equivalent. All attaching devices for sheathing and roof

coverings shall be galvanized or be of other suitable corrosion resistant material.

(b) All corners, gable ends, and roof overhangs exceeding six inches shall be reinforced by the application of waterproof industrial adhesive applied to all bearing surfaces of any plywood sheet used in the sheathing of such corner, gable end, or roof overhang.

(c) In addition, roofs should be sloped as steeply as practicable to reduce uplift pressures, and special care should be used in securing ridges, hips, valleys, eaves, vents, chimneys, and other points of discontinuity in the roofing surface.

(13) ***Protection of openings.***

(a) All exterior glass panels, windows, and doors shall be designed, detailed, and constructed to withstand loads due to the design wind speed of 75 mph. connections for these elements must be designed to transfer safely the design loads to the supporting structure. Panel widths of multiple panel sliding glass doors shall not exceed three feet.

(14) ***Breakaway wall design standards.***

(a) The breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot, with the criterion that the safety of the overall structure at the point of wall failure be confirmed using established procedures. Grade beams shall be installed in both directions for all piles considered to carry the breakaway wall load. Knee braces are required for front row piles that support breakaway walls.

(b) Use of breakaway wall strengths in excess of 20 pounds per square foot shall not be permitted unless a registered professional engineer or architect has developed or reviewed the structural design and specifications for the building foundation and breakaway wall components, and certifies that (1) the breakaway walls will fail under water loads less than those that would occur during the base flood; and (2) the elevated portion of the building and supporting foundation system will not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by the building code.

(j) ***Non-residential structures (except coastal high hazard areas).*** The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-Sections 7-228(c), Subdivision proposals and Section 7-228(d), Encroachments and Section 7-228(e), Standards for all structures.

(1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:

(a) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or

(b) be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood elevation must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:

(a) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

(b) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-Section 7-228(g).

(3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of sub-Section 7-228(j)(1)(b), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

(5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

(k) ***Non-residential structures (coastal high hazard areas).***

(1) In Zones V1-V30, VE and also Zone V if base flood elevations are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall have the bottom of lowest member of the lowest floor elevated to or above two feet above the base flood elevation. Floodproofing of structures is not an allowable alternative to elevating the lowest floor to two feet above the base flood elevation in Zones V1-V30, VE and V.

(l) ***Manufactured homes and recreational vehicles.*** The following standards in addition to the standards in Section 7-228(a) General standards and Section 7-228(e) Standards for all structures apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

(1) Recreational vehicles placed on sites within Zones A1-A30, AE, AH, V1-V30, V, and VE shall either:

(a) be on site fewer than 180 consecutive days,

(b) be fully licensed and ready for highway use, or

(c) meet the requirements for manufactured homes in paragraphs 7-228(l)(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH, V1-V30, V, and VE shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

(3) Within Zones A or V, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

(4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 7-226(b) (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

(Ord. No. 1876/97, § 1, 4-1-97, Ord. No. 2042/09, 7/20/2009)

Sec. 7-229. Compliance.

No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this

article and other applicable regulations.

(Ord. No. 1876/97, § 1, 4-1-97, Ord. No. 2042/09, 7/20/2009)

Sec. 7-230. Warning and disclaimer of liability.

This article does not imply that areas outside the flood hazard zone boundaries or land uses permitted within such zones will be free from flooding or flood damages.

(Ord. No. 1876/97, § 1, 4-1-97, Ord. No. 2042/09, 7/20/2009)

Sec. 7-231. Liability.

This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 1876/97, § 1, 4-1-97, Ord. No. 2042/09, 7/20/2009)

Sec. 7-232. Variance Procedure

a) ***Emergency Management Board.***

(l) The Emergency Management Board as established by the City of Long Beach shall hear and decide appeals and requests for variances from the requirements of this article.

(2) The Emergency Management Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this article.

(3) Those aggrieved by the decision of the Emergency Management Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

(4) In passing upon such applications, the Emergency Management Board , shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article and:

(a) the danger that materials may be swept onto other lands to the injury of others;

(b) the danger to life and property due to flooding or erosion damage;

(c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) the importance of the services provided by the proposed facility to the community;

(e) the necessity to the facility of a waterfront location, where applicable;

(f) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) the compatibility of the proposed use with existing and anticipated development;

(h) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(i) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(k) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(l) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(5) Upon consideration of the factors of Section 7-232(a)(4) and the purposes of this article, the Emergency Management Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

b) ***Conditions for variances***.

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items (a-l) in Section 7-232(a)(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(a) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and

(b) the variance is the minimum necessary to preserve the historic character and design of the structure.

(3) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(a) the criteria of subparagraphs l, 4, 5, and 6 of this Section are met; and

(b) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

(4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances shall only be issued upon receiving written justification of:

(a) a showing of good and sufficient cause;

(b) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of the Local Administrator that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation."

(Ord. No. 2042/09, 7/20/2009)

Secs. 7-233--7-239. Reserved.

ARTICLE XIII. ROLL-OFF CONTAINERS; STORAGE CONTAINERS OR DUMPSTERS*

***Editor's note:** Ord. No. 1434/80, § 1, enacted Nov. 5, 1980, amended the Code with the addition of a new Art. XII, §§ 7-240--7-246. Inasmuch as the Code already contained an Art. XII, corrective Ord. No. 1442/80, § 1, enacted Dec. 16, 1980, was passed which changed the article number from XII to XIII.

Cross references: Garbage and refuse generally, Ch. 12; streets, sidewalks and public ways, Ch. 23.

Sec. 7-240. Legislative intent.

Proliferation in the use of roll-off containers, storage containers or dumpsters, by contractors who place them on public streets during construction work on adjacent property to serve as trash containers, has become a matter of deep concern to the city council because of the potential hazard, primarily to motorists using public streets and particularly in the darkness of the night. This article is designed to regulate the use of these containers with safeguards clearly in mind for the overall protection of persons, property and the roadbed upon which the container or dumpster rests.

(Ord. No. 1434/80, § 1, 11-5-80, Ord. No. 2091/14, 7/1/2014)

Sec. 7-241. Definitions.

[For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:]

Commissioner shall mean the commissioner of the department of buildings and property conservation of the city.

Lessee-permit holder shall mean the person renting the roll-off container or dumpster from the owner-lessor and who applies for and obtains the permit hereunder.

Owner-lessor shall mean the person owning or leasing to third parties the roll-off container or dumpster.

Person shall mean any individual, partnership, firm or corporation.

Roll-off container or *dumpster* shall mean the type of container usually associated with a vehicle containing hydraulic or mechanical capabilities to lift a prefabricated container from the ground onto the truck for transport purposes or to lift and dump the material contained therein into the body of said truck, the contents of which container is solid waste consisting of refuse, rubbish and other debris.

Storage container shall mean a portable compartment in which goods and furnishings are placed, that can be loaded from one mode of transport to another, primarily for temporary storage purposes. Hazardous materials may not be placed in said containers.

Street or *highway* shall mean a thoroughfare within the public domain not less than twenty (20) feet in width, curb to curb.

(Ord. No. 1434/80, § 1, 11-5-80, Ord. No. 2091/14, 7/1/2014)

Sec. 7-242. Permit required.

It shall be unlawful and a violation of this article for any person to place a roll-off container or a storage container upon any public street within the city without first obtaining a permit therefor in accordance with the requirements prescribed by this article.

(Ord. No. 1434/80, § 1, 11-5-80, Ord. No. 2091/14, 7/1/2014)

Sec. 7-243. Application for permit.

The commissioner may issue a permit for the use of a roll-off container or a storage container as a temporary street obstruction prior to the placement thereof, upon written application by either the owner-lessor or lessee-permit holder, provided that:

(a) The street upon which the roll-off container shall rest meets the minimum width requirement of twenty (20) feet, curb to curb.

(b) The roll-off container or dumpster can be effectively placed parallel to the curb so that no part of the container shall extend into the street more than eight (8) feet six (6) inches from the adjacent curb.

(c) The roll-off container shall have thereon a permanent installation of not less than sixteen (16) square feet of diagonal reflectorized stripping material at each end of the container facing opposing traffic; and the roll-off container shall also have permanently stenciled or printed thereon, in English letters at least two (2) inches in height, the name, address and telephone number of the owner-lessor.

(d) Each application shall be accompanied by a certificate of insurance either from the owner-lessor or the lessee-permit holder, indicating public liability coverage insuring the city as a named insured in an amount not less than one hundred thousand dollars ($100,000.00) for injuries, including wrongful death to any person, and subject to the same limit for each person, in an amount not less than three hundred thousand dollars ($300,000.00) on account of each occurrence; and a certificate of insurance either from the owner-lessor or the lessee-permit holder indicating property damage insuring the city as a named insured in an amount not less than fifty thousand dollars ($50,000.00) on account of any occurrence, and in an aggregate amount not less than one hundred thousand dollars ($100,000.00).

(e) A filing fee in the amount of seventy-five dollars ($75.00) shall accompany each application for a permit hereunder.

(f) The commissioner shall have the authority to deny the issuance of a permit hereunder if, in his judgment and discretion, he determines that the placement of a roll-off container or storage container at any street location shall constitute a public nuisance and hazard because of contour, narrow

width, traffic or other highway conditions peculiar to the street at or near the proposed location.

(g) A permit issued for a roll-off container or a dumpster under this article shall expire six (6) weeks from the date of its issuance, and may be extended for an additional thirty (30) days upon written application therefor and compliance with all of the requirements of this section.

(Ord. No. 1434/80, § 1, 11-5-80; Ord. No. 1618/87, § 1, 2-3-87; Ord. No. 1741/91, § 1, 2-19-91; Ord. No. 1858/96, § 5, 7-16-96, Ord. No. 2091/14, 7/1/2014)

Sec. 7-244. Regulations.

(a) Both the owner-lessor and the lessee-permit holder shall be fully liable and responsible for compliance with all of the requirements and regulations of this article.

(b) No roll-off container or dumpster shall be permitted to remain on any street or highway in the city at any time between 5:00 p.m. on Friday and 8:00 a.m. on Monday; and if Friday or Monday shall be a holiday, the aforesaid prohibited time period shall start twenty-four (24) hours sooner or be extended for an additional twenty-four (24) hours, to include the day of the holiday.

(b) (a) No storage container shall be permitted to remain on any street or highway in the city for a time period of more than one hundred eighty (180) days.

(c) Both the owner-lessor and the lessee-permit holder shall be liable and responsible for the repair of any street, sidewalk and/or curb damaged by the placement, movement, use or removal of any roll-off container or dumpster.

(d) Such container or dumpster shall at all times be so placed or positioned that it shall be parallel to the curb, and so that no part of the container shall extend into the street more than eight (8) feet six (6) inches from the adjacent curb, and so that it shall not obstruct any part of the sidewalk or the sidewalk areas adjacent to the street.

(e) The contents of each such container shall be emptied and disposed of before the contents reaches the container's water line.

(f) No garbage or kitchen waste shall be deposited in any such roll-off container or dumpster.

(g) The permit described in section 7-243 of this article shall be conspicuously posted on the site of the work for which the container is being used, at the location for which the permit was issued.

(Ord. No. 1434/80, § 1, 11-5-80, Ord. No. 2091/14, 7/1/2014)

Sec. 7-245. Enforcement; reports and records of violations.

It shall be the duty of all duly authorized peace officers and of any police officer of the city to enforce the provisions of this article, to make arrests or issue appearance tickets or other legal process for violations of this article and to report to the commissioner all offenses observed, whether or not any criminal prosecution is based thereon. The commissioner shall keep complete records of all violations of this article.

(Ord. No. 1434/80, § 1, 11-5-80)

Sec. 7-246. Penalty.

The violation of any provision of this article or the failure to comply therewith shall constitute a violation, and the owner-lessor of the container involved or the lessee-permit holder, or both of them, upon conviction thereof shall be subject to punishment as provided in section 1-8 of this Code.

(Ord. No. 1434/80, § 1, 11-5-80)

Secs. 7-247--7-249. Reserved.

ARTICLE XIV. BOARD OF ARCHITECTURAL REVIEW

Sec. 7-250. Policy and findings.

(a) It is the purpose of this article to preserve and promote the character and appearances and conserve the property values of the city, the attractiveness of whose residential and business areas is the economic mainstay of the community, by providing procedures for an architectural review of structures henceforth erected, reconstructed, rehabilitated, or altered in the city, and thereby:

(1) To encourage good qualities of exterior building design and good appearances and to relate such design and appearances to the sites and surroundings of structures;

(2) To permit originality and resourcefulness in building design and appearances which are appropriate to the sites and surroundings; and

(3) To prevent such design and appearances as are unnecessarily offensive to visual sensibilities.

(b) The city council hereby finds that structures which are visually offensive or inappropriate by reason of poor qualities of exterior design, monotonous similarity or striking visual discord in relation to their sites or surroundings mar the appearances of their areas, impair the use, enjoyment and desirability and reduce the values of properties, are detrimental to the characters of neighborhoods, prevent the most appropriate development and utilization of land, and therefore adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the entire community.

(Ord. No. 1602/86, § 1, 8-19-86)

Sec. 7-251. Creation of board.

(a) There is hereby created a board of architectural review which shall be comprised of all the members of the city council of the city. The city manager may appoint, to aid it in its review of plans submitted for approval, the following:

(1) Two (2) duly licensed architects who shall act as architectural consultants.

(2) Three (3) citizens of the City of Long Beach, to act as lay consultants.

(b) All appointees under this section shall serve at the will of the city manager.

(c) It shall be the duty of the consultants, sitting as a body, to review all architectural plans submitted to the board of architectural review and to make recommendations thereon to the board.

(d) At any meeting during which one of the architectural plans to be reviewed has been submitted by any consultant, that consultant shall be precluded from attendance at the meeting.

(e) None of the consultants shall be entitled to receive any fee for the performance

of their duties as such.

(Ord. No. 1602/86, § 1, 8-19-86)

Sec. 7-252. Procedures.

Meetings of the board of architectural review shall be held at the call of the president and at such other times as the board shall determine. The board may hold a public hearing when it deems the same to be in the public interest. A majority of the board shall constitute a quorum for the transaction of business. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall also keep copies of its examinations and other official actions. The board shall have power from time to time to adopt, amend and repeal rules and regulations, not inconsistent with law or the provisions of this article, governing its procedure and the transaction of its business, and for the purpose of carrying into effect the standards outlined in section 7-254.

(Ord. No. 1602/86, § 1, 8-19-86)

Sec. 7-253. Referrals to the board.

(a) Promptly after receiving plans and an application for a building permit for the construction, reconstruction, rehabilitation or alteration of any building or structure, the building commissioner shall transmit to each member of the board of architectural review a copy of such plans and application.

(b) Applications must be accompanied by plans showing all elevations of new structures and all affected elevations in the case of additions or alterations. When required by the building commissioner or by the board of architectural review, a site plan shall be submitted showing both existing and proposed contours at five-foot intervals, all existing trees with a trunk diameter of four (4) inches or more at a point three (3) feet above the ground level and whether such trees shall remain or be removed, and/or other topographical features.

(c) It shall be unlawful for any owner, tenant or occupant of any existing or proposed building to install any roll-up or rolling metal shutters, doors or grille doors therein or thereon, unless and until a written application shall be made to the building commissioner and approved by him after referral of such application to the board of architectural review.

(Ord. No. 1602/86, § 1, 8-19-86; Ord. No. 1652/88, § 1, 1-19-88; Ord. No. 1665/88, § 1, 5-17-88)

Sec. 7-254. Standards for board action.

(a) Approval of any building permit shall be by a vote of at least a majority of the members of the board of architectural review.

(b) In considering an application for a permit the board shall take into account natural features of the site and surroundings, exterior design and appearances of existing structures, and the character of the district and its peculiar suitability for particular purposes, with a view to conserving the values of property and encouraging the most appropriate use of land.

(c) The board may approve any application referred to it upon finding that the building or structure for which the permit was requested, if erected or altered in accordance with the submitted plan, would be in harmony with the purpose of this article, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or striking visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability and reduce the values of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent the most appropriate development and utilization of the site or of adjacent lands and would not adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the entire community.

(d) In approving any application, the board may impose appropriate conditions and safeguards designed to prevent the harmful effects set forth in section 7-250.

(e) The board may disapprove any application for a permit, provided that the board has afforded the applicant an opportunity to confer upon suggestions for change of the plan, and provided that the board finds and states that the structure for which the permit was requested would, if erected as indicated, provoke one or more of the harmful effects set forth in section 7-250 by reason of:

(1) Monotonous similarity to any other structure or structures located or proposed to be located on the same street or corner thereof and within one hundred fifty (150) feet of the site of the structure for which a building permit is requested, in respect to one or more of the following features of exterior design and appearance:

a. Substantially identical facade, disregarding color;

b. Substantially identical size and arrangement of either doors, windows, porticos, porches or garages or other openings or breaks or extensions in the facade, including reverse arrangements; or

c. Other substantially identical features such as, but not limited to, setbacks from street lines, heights, widths and lengths of elements of the building design, and exterior materials and treatments.

(2) Striking dissimilarity, visual discord or inappropriateness with respect to other structures located or proposed to be located on the same street or a corner thereof and within one hundred fifty (150) feet of the site of the structure for which a building permit is requested, in respect to one or more of the following features of exterior design and appearance:

a. Facade, disregarding color;

b. Size and arrangement of doors, windows, porticos, porches or garages or other openings, breaks or extensions in the facade; or

c. Other significant design features, such as, but not limited to, heights, widths and lengths of elements of design, exterior materials and treatments, roof structures, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, light posts, parking areas and fences, service

and loading areas.

(3) Visual offensiveness or other poor qualities of exterior design, including, with respect to signs, considerations of the harmony or discord of colors, or incompatibility of the proposed structure with the terrain on which it is to be located, including, but not limited to, excessive divergences of the height or levels of any part of the structure from the grade of the terrain.

(Ord. No. 1602/86, § 1, 8-19-86)

Sec. 7-255. Failure to act.

The building commissioner shall refuse any building permit application disapproved as provided in section 7-254. If the board of architectural review shall fail to approve or disapprove any application referred to it under section 7-253 within thirty (30) days of the date of referral of such application to it, the application shall be considered to have been approved unless the applicant shall have agreed to an extension of time.

(Ord. No. 1602/86, § 1, 8-19-86)

Sec. 7-256. Appeal.

Any applicant aggrieved by the action of the board of architectural review in disapproving a building permit application, and of the building commissioner in denying such permit because of such disapproval, may request the board to make formal findings of fact. In the event of such a request, the board shall make such findings of fact within fifteen (15) days after the request is filed in the city clerk's office, shall thereafter provide the applicant with an opportunity to answer the findings by the submission of formal proof, and shall reconsider the application on the basis of such answer. If the application is disapproved after such reconsideration, the applicant may bring a proceeding to review in the manner provided by Article 78 of the Civil Practice Law and Rules in a court of record on the ground that such action is illegal, in whole or in part. Such proceeding must be commenced within thirty (30) days after the filing in the office of the city clerk of the decision after reconsideration.

(Ord. No. 1602/86, § 1, 8-19-86)

Sec. 7-257. Supplementary to provisions of other ordinances.

This article shall supplement all other provisions of the Code of Ordinances of the City of Long Beach, and shall modify all such other provisions to the extent that such provisions conflict with or are contrary to the provisions of this article.

(Ord. No. 1602/86, § 1, 8-19-86)

Secs. 7-258--7-264. Reserved.

ARTICLE XV. FIRE PREVENTION*

***Cross references:** Fire prevention and protection, Ch. 11; housing rehabilitation, Ch. 13.

Sec. 7-265. Fire extinguishers.

(1) Fire extinguishers shall be maintained at regular intervals, not more than one year apart or when specifically indicated by an inspection.

(2) Fire extinguishers removed from the premises for maintenance shall be replaced by spare extinguishers of the same type during the period they have been removed for this purpose.

(3) Each fire extinguisher shall have a printed durable tag securely attached with the name and address of the firm; the month and year the service is performed; the type of extinguisher service; and the signature of the person performing the maintenance.

(4) Fire extinguisher signs:

(a) A durable sign, reading "FIRE EXTINGUISHER," shall be provided directing attention to the location and type of each fire extinguisher.

(b) Such sign, whenever possible, shall be securely mounted on the wall directly above each fire extinguisher, with the bottom of the sign no more than eighty-four (84) inches nor less than sixty-six (66) inches above the floor. Said sign shall be at least twelve (12) inches in length and at least four (4) inches in width. The words "FIRE EXTINGUISHER" shall be painted or otherwise inscribed on a white arrow, which shall point in the direction of the fire extinguisher. Such letters shall be red and of uniform size, at least seven-eighths of an inch in height and each stroke of each letter shall be not less than three-quarters of an inch in width. The background of each sign shall be red.

(c) Where a fire extinguisher is not visible from all locations in a public area or corridor, directional signs, as required by the building commissioner, shall be placed on walls or otherwise displayed in conspicuous locations to direct occupants to said fire extinguisher.

(5) If, at any time, a fire extinguisher shows evidence of corrosion or mechanical injury in the discretion of the building commissioner, it shall be subjected to a hydrostatic pressure test by a person or persons engaged in that type of a business or replaced.

(6) At intervals not exceeding those specified in the following paragraphs, fire extinguishers shall be hydrostatically tested. The first hydrostatic retest may be conducted between the fifth and sixth years for those with a designated test interval of five (5) years.

Fire Extinguisher Type	*Test Interval Year*
Soda-acid	5
Cartridge-operated water and/or antifreeze	5
Storage-pressure water and/or antifreeze	5
Wetting agent	5
Foam	5
Loaded stream	5
Dry chemical extinguishers with stainless steel or soldered brass shells	5
Carbon dioxide extinguishers	5
Dry chemical extinguishers with brazed-brass shells, mild-steel shells or aluminum shells	12
Bromotrifluoromethane--Halon 1301	12
Bromotrifluoromethane--Halon 1211	12
Dry powder extinguishers for metal fires	12

(7) All fire extinguishers that are required to be hydrostatically tested shall be recorded on a suitable metallic label or equally durable material that shall be affixed by a heatless process to those shells of the fire extinguishers which have satisfactorily passed a hydrostatic test. When a metallic label is used, it shall be of the type that self-destructs when removed. Those shells that are made of material capable of being stamped by a punch which leaves the date the fire extinguisher has hydrostatically tested imprinted on the shell, must use that process.

(8) Cylinders under jurisdiction of the U.S. Department of Transportation (formerly Interstate Commerce Commission) or the Board of Transport Commissioners of Canada may require hydrostatic testing at more frequent periods in the discretion of the building commissioner.

(9) Fire extinguisher shells, cartridges or cylinders which show leakage or permanent distortion in excess limits, or which rupture shall be removed from service and destroyed.

(10) (a) Approved automatic fire extinguishing systems shall be given a thorough examination no longer than six (6) months apart. Any necessary repair, recharging or replacement shall be done by a person or persons engaged in that type of business.

(b) The cylinders used for the above system shall be hydrostatically tested every five (5) years.

(c) Each automatic fire extinguishing system shall have securely attached a printed durable tag with the name and address of the firm; the month and year the service was performed; the type of extinguishing system serviced; and the signature of the person performing the maintenance.

(11) Gas cylinders such as found on wheeled extinguishers shall be tested at a ten-year interval.

(12) Definitions:

(a) *Maintenance:* A thorough check of the fire extinguisher to give maximum assurance that an extinguisher will operate effectively and safely. It shall

include a thorough examination and any necessary repair, recharging or replacement by a person or persons engaged in that type of business.

(b) *Firm:* A firm is any person, partnership, corporation or associate or a company.

(c) *Hydrostatic testing:* Pressure testing by hydrostatic methods.

(d) *Fire extinguisher:* A device that contains within it chemicals, fluids or gases for extinguishing fires, the means for application of its contents to that purpose, and is capable of being readily moved from place to place.

(e) *Service and servicing:* Servicing fire extinguishers includes any or all of the following: Charging, filling, maintaining, recharging, refilling, repairing and testing.

(f) *Sauna room:* An enclosed room containing or connected to a source of dry heat generating a temperature therein in excess of one hundred twenty (120) degrees Fahrenheit.

(Ord. No. 1663/88, § 2, 5-3-88)

Sec. 7-266. Automatic fire extinguishing systems.

(1) Every building hereafter erected, completed or having alterations made to the piping in the boiler room thereof, shall be provided by the owner with automatic sprinklers in the boiler room, which system shall provide not less than one sprinkler head per one hundred (100) square feet of floor area or portion thereof.

(2) Every building hereafter so erected, or altered as to be used in whole or part for manufacturing, storage or any industrial use shall be provided by the owner with an automatic sprinkle system throughout the entire structure.

(3) Every nonfireproof building constructed and used, in whole or in part as a hotel or rooming house, prior to the enactment of the state building construction code and continued to be used as such at present, not later than July first, 1974, shall be provided by the owner with an automatic sprinkler system throughout the entire structure.

(4) Each building used in whole or in part as a restaurant, banquet hall, cafeteria, coffee shop, diner, luncheonette or other public place where food is served, and/or sold, to include any premises used for civic, political, religious, social, recreational, educational or similar purpose, having open-flame cooking grills, stoves or deep-fat fryers, irrespective of when such building may have been constructed or altered, shall not later than July 1, 1974, be provided by the owner with an approved automatic fire extinguishing system (CO_2 or dry powder) throughout that portion of the structure occupied by the cooking area of such restaurant, luncheonette, banquet hall, cafeteria, coffee shop, diner or public place where food is served and/or sold. The area to be covered by this automatic fire extinguishing system also includes ducts and hoods.

(5) All automatic fire sprinkler systems and/or automatic fire extinguishment systems must meet the requirements adopted by the National Fire Protection Association of Boston, Massachusetts, as more particularly set forth in its regulations which are made a part hereof as if fully set forth at length, and the requirements of the

state building construction code and manual, and must be approved by the building commissioner of the City of Long Beach, and prior to installation of such automatic fire extinguishing system, a plan must be submitted to the fire marshall's office, County of Nassau, for their approval, and a permit shall be secured from the building department prior to the installation of said system.

(6) Every sauna room located in a multiple dwelling in the City of Long Beach shall be provided with automatic sprinklers consisting of not less than two (2) sprinkler heads per one hundred (100) square feet or fraction thereof which shall be supplied by not less than a one-inch water pipe connected to an existing sprinkler system or, if no such sprinkler system exists, to the domestic water supply. The sprinkler heads required by this subsection shall be rated to discharge water at a room temperature of three hundred sixty (360) degrees Fahrenheit.

(Ord. No. 1663/88, § 2, 5-3-88)

Sec. 7-267. Supplementary fire detection and alarm system.

There is hereby established a supplementary fire detection and alarm system which shall include a municipal alarm board to be maintained by the city.

(1) For the purpose of implementing the provisions of this section, all buildings shall be classified as follows:

Type A. Camps, hotels, multiple dwellings, nursery schools, rooming houses, nursing homes, establishments used principally for the housing of elderly persons, theatres, factories, lumber yard structures, warehouses, storage houses, industrial structures and manufacturing plants.

Type B. Houses of worship, schools, hospitals.

Type C. All other structures.

(2) Each type A and type B structure equipped or required to be equipped with a sprinkler system or fire detection alarm shall have said sprinkler system or fire detection alarm connected to the municipal alarm board and equipped with a device capable of automatically transmitting a signal to the municipal alarm board when such sprinkler system or fire detection alarm shall be actuated by heat or smoke at the protected premises. All type C structures may be similarly equipped.

(3) There shall be an annual fee payable to the city, in advance, on December first of each year of one thousand four hundred dollars ($1,400.00) for all type A and type C structures connected to the municipal alarm board, and seven hundred fifty dollars ($750.00) for all type B structures connected to the municipal alarm board.

(4) In all types of structures where a connection with the municipal alarm board is required, the person owning, operating or controlling such structure shall, not later than sixty (60) days after the effective date of this section, install and connect to the municipal alarm board a device approved by the city.

(5) Penalty. Any person who shall violate any provision of this section shall

upon conviction be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment for not more than six (6) months, or both. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(6) In the event of activation of the fire detection alarm device, the owner of the premises involved, or his agent, shall at their own expense cause the device to be reset within twenty-four (24) hours of said activation. Upon failure to comply with this section, the city will reset the device, and charge the owner or his agent a fee of five hundred dollars ($500.00) therefore.

(7) In all types of structures where a connection with the municipal alarm board is required, the owner thereof or his agent is required to maintain a readily accessible means of entry to the master alarm panel for the purpose of inspection by City of Long Beach personnel.

(8) (a) All AC powered fire alarm systems, thermostatic fire alarm systems and other special fire alarm and/or activating systems, including heat- and/or smoke-detection systems, shall be maintained in proper working order by a person licensed by the City of Long Beach electrical examining board. These systems shall be inspected at least once every six (6) months by a person licensed by the City of Long Beach electrical examining board to determine that all parts of the system are in proper working order and ready for immediate use. All work done pursuant to this section must be performed in accordance with the standards contained in the National Fire Protection Association Electrical Code. A detailed report of such inspection shall be kept available for examination by the City of Long Beach, who will provide the appropriate forms for this report.

(b) The name, address and phone number of the maintenance company or individual maintainer of the system shall be displayed at the control panel.

(c) All fire alarm system devices requiring rewinding shall be rewound after each operation and kept in normal condition, and a sign shall be conspicuously displayed stating this rewinding requirement.

(d) If any fire alarm system becomes inoperative at any time, it shall be the duty and responsibility of the owner to notify all occupants of the building protected by such system and to take immediate action to have the fire alarm system restored to proper working order. In the interim placards shall be placed on all fire alarm boxes, indicating that the system is inoperative.

(e) If for any reason it becomes necessary to disconnect the source of the electric current and/or the power supply of the fire alarm system, or to make repairs to the system, the City of Long Beach shall be notified in advance, stating the reason(s), the duration of the shut-down, the name and telephone number of the person licensed by the City of Long Beach electrical examining board who is to perform the work and the Long Beach electrical board license number of said person.

Sec. 7-267. Supplementary fire detection and alarm system.

(9) (a) The owner, operator or person in control of any structure from which four (4) or more false alarms are transmitted within any forty-five day period shall be guilty of an offense, and shall be subject to the penalty provided in subsection (5) of this section.

(b) In the event that the same person, firm or corporation shall have repaired and/or reset the same malfunctioning fire-detection device which has transmitted four (4) or more false alarms within any forty-five day period, the city's electrical examining board shall investigate the circumstances and causes of the repeated malfunctions, and shall take such action thereon as it may deem appropriate under the circumstances.

(Ord. No. 1663/88, § 2, 5-3-88; Ord. No. 1827/94, §§ 1, 2, 11-15-94; Ord. No. 1980/04, § 1, 5-4-04; Ord. No. 2055/10, 7-6-2010)

Sec. 7-268. Inspections of fire sprinkler systems.

In every structure having a fire sprinkler system, said system shall be inspected at least once every six (6) months by a licensed plumber or a fire sprinkler system installation and maintenance business duly licensed by the City of Long Beach. These inspections are to be conducted at the owner's expense, to see that all parts of the system are in perfect working order and that the fire department connection or connections are ready for immediate use by the fire department. A detailed report of each inspection shall be kept and a copy of the inspection report forwarded to the building commissioner. The building commissioner will provide the appropriate form for this report.

(Ord. No. 1663/88, § 2, 5-3-88)

Sec. 7-269. Maintenance and inspection of standpipe systems.

(1) In every structure having a standpipe system there shall be an engineer, superintendent or other person in charge of the standpipe system who shall be competent and able to maintain and operate the standpipe system properly.

(2) At least once every six (6) months, said person shall inspect to ascertain that all valves, hoses, tools and other accessory firefighting appliances are kept readily available and in good working order. Pressure shall be applied to subject the standpipe system to a hydrostatic pressure of at least fifty (50) pounds per square inch at the top story outlet. The building commissioner will provide the necessary forms for this inspection which will be completed in duplicate. One copy will be kept on file at the premises and readily available for inspection by the building department and one copy to be forwarded to the building commissioner. This bi-yearly test may be conducted by a licensed plumber or person engaged in that business.

(Ord. No. 1663/88, § 2, 5-3-88)

Sec. 7-270. Liability for costs and expenses.

In the event of a fire resulting directly or indirectly from any omission or neglect to comply with any provision of this article, any such owner, agent, lessee, occupant or

person in charge or in control, culpable or negligent in respect thereto, shall be liable to the City of Long Beach for the payment of all costs and expenses incurred in and about the use of employees, apparatus and materials in the extinguishment of any fire resulting from such cause. The amount of such costs and expenses shall be fixed by the council of the City of Long Beach and shall be collected by the city in a civil action wherein the City of Long Beach shall be plaintiff and the party culpable or negligent, as above set forth, shall be defendant. When collected, such costs and expenses shall be paid to the city treasurer and credited to the current fund.

(Ord. No. 1663/88, § 2, 5-3-88)

Sec. 7-270. Liability for costs and expenses.

ARTICLE XVI. LANDMARKS PRESERVATION

Sec. 7-271. Purpose.

It is hereby declared as a matter of public policy that the protection, enhancement, and perpetuation or landmarks is necessary to promote the economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the city has many significant historic, architectural, and cultural resources which constitute its heritage, this act is intended to:

(1) Protect and enhance the landmarks which represent distinctive elements of Long Beach's historic, architectural, and cultural heritage;

(2) Foster civic pride in the accomplishments of the past; and

(3) Protect and enhance Long Beach's attractiveness to visitors and the support and stimulus to the economy thereby provided.

(Ord. No. 1833/95, § 1, 3-21-95)

Sec. 7-272. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Alteration. Any act or process which changes one (1) or more of the exterior architectural features of a structure or building designated as a landmark.

Building. A structure wholly or partially enclosed within exterior walls or within exterior or party walls and a roof, affording shelter to persons, animals or property.

Commission. Refers to the architectural review board which shall assume the powers and duties of, and also be known as, the landmarks preservation commission.

Exterior architectural features. The architectural style, design, general arrangement and components of all of the outer surfaces or any building or structure, including but not limited to the kind, color and texture of the building material and the style of all windows, doors, lights, signs and other fixtures appurtenant to said building or structure.

Landmark. Any place, structure or building of historical value or aesthetic interest by reason of its antiquity or uniqueness of architectural design or as part of the development, heritage or cultural characteristics of the city.

Landmark map. Maintained by the building department, identifying the location of all landmarks and landmark sites.

Landmark site. A parcel or part thereof on which is situated a landmark, and any abutting parcel or part thereof, constituting part of the premises on which the landmark is situated.

Owner. Unless otherwise stated herein, the title holder in fee simple absolute of the landmark site.

Structure. Any assembly of materials forming a construction framed of component parts for occupancy or use, including buildings.

Styles of architecture. Styles recognized by one (1) or more of the following organizations:

(1) The National Register of Historic Places.

(2) Historic American Buildings Survey.

(3) Historic American Engineering Records.

(4) United States Department of the Interior.

(5) National Park Service.

(6) Division for Historic Preservation.

(7) New York State Office of Parks & Recreation.

(8) Nassau County Museum.

(9) National Trust for Historic Preservation.

(10) Society of Architectural Historians.

(Ord. No. 1833/95, § 1, 3-21-95)

Sec. 7-273. Powers and duties of the landmarks preservation commission.

The landmarks preservation commission shall have the powers and duties granted herein:

(1) Promulgation of rules and regulations as necessary for the conduct of its business;

(2) Adoption of criteria for the identification of significant historic, architectural, and cultural landmarks;

(3) Conduct of surveys of significant historic, architectural, and cultural landmarks within the city;

(4) Designation of identified structures or resources as landmarks;

(5) Making recommendations to the city government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this act;

(6) Increasing public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs;

(7) Making recommendations to the city government concerning the utilization of state, federal, or private funds to promote the preservation of landmarks within the city;

(8) Approval or disapproval of applications for designation pursuant to this chapter.

(Ord. No. 1833/95, § 1, 3-21-95)

Sec. 7-274. Procedures for designation.

(a) Only an owner may request the designation of owned property as a landmark or landmark site by submitting an application to the landmarks preservation commission on a form furnished by the commission. In reaching a decision, the commission shall consider the special character, ambiance, historical significance, aesthetic value and uniqueness of architectural design of the landmark or landmark site, wherever applicable.

(b) Upon receipt of an application for designation, notice that an application has been received shall be given by the landmarks preservation commission by certified mail, return receipt requested, to the owners of all property located within one hundred fifty (150) feet of all exterior boundary lines of the subject parcel. Said owners shall have the right to confer with the landmarks preservation commission prior to a final decision by the commission.

(c) The landmarks preservation commission shall either recommend approval or disapproval of an application within thirty (30) days after the receipt of the application. Any recommendation for approval may include modifications of the application.

(d) If the landmarks preservation commission recommends disapproval of the application, additional information may be submitted to the commission within ten (10) working days after date of disapproval for further consideration. If the proposed landmark or landmark site is then disapproved, the proceedings with regard to the proposed landmark or landmark site shall terminate. No application shall be renewed for a period of one (1) year from the date of initial filing. The commission's recommendation shall immediately be filed with the city clerk and notice of such recommendation shall be mailed to the owners of the subject property.

(e) If the landmark preservation commission recommends the approval of a designation, the city council shall act to approve or disapprove said designation within thirty (30) days of filing of the commission's recommendations. A vote of at least three (3) members of the city council shall be necessary for approval or disapproval of the commission's decisions.

(f) The city council shall call a public hearing on all applications for designation that are recommended for approval by the landmarks preservation commission. Such hearing shall be advertised at least once in a newspaper of general circulation in the city not less than five (5) days prior to such hearing and notice thereof shall be served by mail postmarked at least ten (10) days prior to the day of the public hearing upon the owner or owners of the proposed landmark or landmark site and the owner or owners of all property located within one hundred fifty (150) feet of the exterior boundary lines of the subject place, site, or structure. The city council shall act to approve or disapprove the designation within thirty (30) days of the public hearing.

(g) When the city council approves or disapproves an application, the building department commissioner, the landmarks preservation commission and the owner or owners of the subject property shall be notified in writing by the city clerk.

(Ord. No. 1833/95, § 1, 3-21-95)

Sec. 7-275. Building permit for proposed landmark.

(a) Upon receipt of notice that the landmarks preservation commission is considering a place, site, structure or building for designation as a landmark or landmark site, the building department shall not issue any permit for the demolition, alteration or improvement of said place, site, structure or building for a period of one hundred twenty (120) days unless prior to the expiration of said period there is a final determination by the city council that said place, site, structure or building has not qualified as a landmark or landmark site. If within said period the city council designates the property in question as a landmark or landmark site, no building permit shall be issued except pursuant to section 7-276 of this chapter.

(b) Upon notification that the city council has designated a landmark or a landmark site, the building commissioner shall immediately cause such property to be so designated on the landmark map.

(Ord. No. 1833/95, § 1, 3-21-95)

Sec. 7-276. Regulation of designated landmarks.

(a) No structure, site, place or building designated as a landmark or landmark site appearing on the Landmark Map shall be constructed, altered, repaired, moved or demolished except in compliance with the requirements set forth in this section.

(b) The landmarks preservation commission shall review all plans for the moving, exterior construction, addition, alteration or repair, landscaping or demolition of places, sites, structures or buildings designated as landmarks or landmark sites.

(c) It shall be the duty of the commission to review the plans before the building department issues a building permit therefor.

(d) The landmarks preservation commission shall only review plans relating to the exterior features of a structure or building as are visible from the public way, front, side, roof, and shall have no jurisdiction to consider interior walls, arrangements, structures or rear exterior walls.

(e) In reviewing the plans, the landmarks preservation commission shall give consideration to:

(1) The historical and architectural value and significance of the building or structure and its relationship to the historic and architectural value of the surrounding area.

(2) The general appropriateness of proposed exterior design, colors, arrangement, texture and materials, and consistency with the style of the particular architectural period of which said building or structure is characteristic.

(3) Any other factors relating to aesthetic considerations which the landmarks preservation commission deems pertinent to the benefit of the city and to the historic significance of the structure or building and surrounding area.

(f) Alterations, repairs, and additions to buildings or structures which are designated as landmarks shall be made consistent with the materials and style of the architectural period of which said building or structure is characteristic.

(g) Moving of buildings or structures designated as landmarks may be allowed as an alternative to demolition.

(Ord. No. 1833/95, § 1, 3-21-95)

Sec. 7-277. Loans.

(a) After a place, site, structure or building has been designated as a landmark, the owner or owners thereof shall be eligible to apply for loans from community development funds for the purpose of rehabilitating, repairing and/or preserving such property.

(b) Such loan shall not exceed ten thousand dollars ($10,000.00) and must be approved by resolution of the city after review and recommendation of the commission.

(c) Such loan shall be secured by a mortgage on the property, and repaid without interest over a ten-year period, in equal monthly installments.

(d) The city comptroller is hereby authorized to adopt procedures for application and processing such loans.

(Ord. No. 1833/95, § 1, 3-21-95)

Sec. 7-278. Review of building permit applications.

(a) Application for a building permit to construct, alter, repair, move or demolish any place, site, structure or building designated as a landmark shall be made to the building commissioner. The application shall state that the property is a landmark. Plans shall be submitted showing the structure or building in question and also giving its relation to the adjacent structures or buildings and the construction, alteration, repair, moving or demolition sought to be accomplished.

(b) The building department commissioner shall transmit the application and plans to the landmarks preservation commission.

(c) The landmarks preservation commission shall then review the plans in accordance with the provisions of this chapter. In reviewing the plans, the landmarks preservation commission shall, if requested, provide opportunity to the applicant or his or her authorized representative to discuss the merits of the permit application. The landmarks preservation commission shall approve, modify and approve or disapprove such plans within fifteen (15) days after receiving the application and accompanying plan(s), and shall transmit a record of its proceedings and findings to the building department commissioner and the applicant.

(d) No building permit shall be issued until the commission has filed its written recommendations with the building department commissioner and mailed a copy thereof to the applicant.

(e) Nothing in this section shall be construed to prevent ordinary maintenance or

repair with like materials or similar quality and color, of any place, site, structure or building designated as a landmark or landmark site, or any property located wholly or partly within the boundaries of a historic district.

(f) This chapter shall not apply in any case where the building department or any authorized city enforcement agency orders or directs the construction, removal, alteration or demolition of any improvement on a landmark site or in a historic district for the purpose of remedying conditions determined to be unsafe or dangerous to the life, health or property of any person.

(Ord. No. 1833/95, § 1, 3-21-95)

Sec. 7-279. Termination of designation.

Whether a site designated as a landmark is destroyed or its exterior is altered to such an extent that it ceases to have architectural significance, or upon the application of an owner who demonstrates hardship, the city council may direct, by resolution, that it be removed from the landmarks map. Prior to taking such action, however, the owner shall be given written notice of such proposed action and an opportunity to be heard thereon before the city council.

(Ord. No. 1833/95, § 1, 3-21-95)

Secs. 7-280--7-281. Reserved.

ARTICLE XVII. ESTABLISHMENT OF ENERGY BENCHMARKING REQUIREMENTS FOR CERTAIN MUNICIPAL BUILDINGS

Sec. 7-282. Purpose.

Buildings are the single largest user of energy in the State of New York. The poorest performing buildings typically use several times the energy of the highest performing buildings, for the exact same building use. As such, this Article shall use Building Energy Benchmarking to promote the public health, safety and welfare by making available good, actionable information on municipal building energy use to help identify opportunities to cut costs and reduce energy consumption and greenhouse emissions in the City of Long Beach.

Collecting, reporting and sharing Building Energy Benchmarking data on a regular basis allows municipal officials and the public to understand the energy performance of municipal buildings relative to similar buildings nationwide. Equipped with this information, the City of Long Beach is able to make smarter, more cost-effective operational and capital investment decisions, reward efficiency and drive widespread, continuous improvement..

(Ord. No. 3010/17, § 1, 02-07-2017)

Sec. 7-283. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Benchmarking Information shall mean information generated by Portfolio Manager (or other recommended software), as herein defined including descriptive information about the physical building and its operational characteristics.

Building Energy Benchmarking shall mean the process of measuring a building's energy use, tracking that use over time and comparing performance to similar buildings.

Commissioner shall mean the head of the department.

Covered Municipal Building shall mean a building or facility that is owned or occupied by the City of Long Beach that is 1,000 square feet or larger in size.

Department shall mean the Department of Public Works.

Energy shall mean electricity, natural gas, steam, hot or chilled water, fuel oil, or other product for use in building, or renewable in-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities, as reflected in utility bills or other documentation of actual energy use.

Energy Performance Score shall mean the numeric rating generated that compares the energy usage of the building to that of similar buildings.

Gross Floor Area shall mean the total number of enclosed square feet measured between the exterior surfaces of the fixed walls within any structure used or intended for supporting or sheltering any use or occupancy.

Portfolio Manager shall mean the internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide, or its replacement software.

Utility shall mean an entity that distributes and sells energy to covered municipal buildings.

Weather Normalized Site EUI shall mean the amount of energy that would have been used by a property under 30-year average temperatures, accounting for the difference between average temperatures and yearly fluctuations.

(Ord. No. 3010/17, § 1, 02-07-2017)

Sec. 7-284. Applicability.

The Commissioner may exempt a particular Covered Municipal Building from the benchmarking requirement if the Commissioner determines that it has characteristics that make benchmarking impractical.

(Ord. No. 3010/17, § 1, 02-07-2017)

Sec. 7-285. Benchmarking Required for Covered Municipal Buildings.

1. The Commissioner or his designee, shall enter the total energy consumed by each Covered Municipal Building into the appropriate software, along with all other descriptive information required for data input from the previous calendar year.

2. For new Covered Municipal Buildings that have not accumulated 12 months of energy use data by the first applicable date following occupancy for inputting energy use into Portfolio Manager, the Commissioner or his designee shall begin inputting data in the following year.

(Ord. No. 3010/17, § 1, 02-07-2017)

Sec. 7-286. Disclosure and Publication of Benchmarking Information.

1. The Department of Public Works shall make available to the public on the internet Benchmarking information for the previous calendar year by September 1st of each year.

2. The Department of Public Works shall make available to the public on the City of Long Beach website, www.longbeachny.gov, and update at least annually, the following Benchmarking information:

a. Summary statistics on energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking information; and

b. For each Covered Municipal Building individually:

(i) The status of compliance with the requirements of this Article; and

(ii) The building address, primary use type, and gross floor area; and

(iii) Annual summary statistics, including site EUI, Weather Normalized Source EUI, annual GHG emissions, and an Energy Performance Score where available; and

(iv) A comparison of the annual summary statistics across calendar years for all years since annual reporting began for said building.

(Ord. No. 3010/17, § 1, 02-07-2017)

Sec. 7-287. Maintenance of Records.

The Department of Public Works shall maintain records as necessary for carrying out the purposes of this Article, including but not limited to energy bills and other documents received from tenants and/or utilities. Such records shall be preserved by Public Works for a period of three (3) years.

(Ord. No. 3010/17, § 1, 02-07-2017)

Sec. 7-288. Enforcement and Administration.

1. The Commissioner of Public Works may promulgate regulations necessary for the administration of the requirements of this Article.

2. Within thirty (30) days after each anniversary date of the effective date of this Ordinance, the Commissioner of Public Works shall submit a report to the City Council including, but not limited to, summary statistics of Benchmarking Information, a list of all Covered Municipal Buildings identifying each Covered Municipal Building that the Commissioner determined to be exempt from the benchmarking requirement and the reason for the exemption, and the status of compliance with the requirements of this Ordinance.

(Ord. No. 3010/17, § 1, 02-07-2017)

Chapter 8 CITY COURT*

***Charter references:** Compensation of city judge, § 12; city court, § 185 et seq.

Cross references: Traffic violations bureau, § 15-66 et seq.

Sec. 8-1. Seal.

The city court shall have an official seal, which shall be of circular design, and shall contain on the outer circular part thereof, the words "CITY COURT OF THE CITY OF LONG BEACH", and within the circle, the figure of the scales of justice.

(Code 1957, § 2-308)

Sec. 8-2. Reserved.

Editor's note: Ord. No. 1578/86, § 1, adopted January 21, 1986, repealed § 8-2 in its entirety. Former § 8-2 was concerned with the term of associate city judge and derived from the Code of 1957, § 2-303.

Chapter 9 CIVIL DEFENSE*

***State law references:** Civil defense, McK. Unconsol. Laws, § 9120 et seq.; local civil defense, McK. Unconsol. Laws, § 9122.

Art. I. In General, §§ 9-1--9-19
Art. II. Municipal Civil Defense Council, §§ 9-20-9-32
Art. III. Civil Defense Organization, §§ 9-33--9-36

ARTICLE I. IN GENERAL

Sec. 9-1. Oath required of civil defense workers.

Each person serving as a member of the municipal civil defense council or as an officer, employee or volunteer in any capacity in the municipal civil defense organization shall, prior to assuming his duties, take an oath which shall be substantially as follows:

> "I, _____ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of New York against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any political party or organization, group or combination of persons that advocates the overthrow of the Government of the United States or of this State by force or violence; and that during such time as I am a member of the Municipal Defense of the City of Long Beach I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons or of any political party that advocates the overthrow of the Government of the United States or of this State by force or violence."

(Code 1957, § 7-605)

Sec. 9-2. Lights during blackouts declared a public nuisance.

Any light displayed contrary to any order, rule or regulation promulgated pursuant to the provisions of this chapter constitutes a public nuisance and when deemed necessary in order to protect life or property during blackouts or air raids, the police are authorized and directed to enter upon any premises within the city using reasonable force, and extinguish the lights or take other necessary action to make effective any order, rule or regulation promulgated under the authority conferred by this chapter.

(Code 1957, § 7-606)

Sec. 9-3. Unauthorized warning or all-clear signals prohibited.

Any unauthorized person who shall operate a siren or other device so as to simulate a blackout signal or air raid, or the termination of a blackout or air raid, shall be

deemed guilty of a violation of this chapter.

(Code 1957, § 7-607)

Sec. 9-4. Conflicting ordinances, orders, rules and regulations suspended.

At all times when the orders, rules and regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede all existing provisions of this Code and other city ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

(Code 1957, § 7-608)

Sec. 9-5. Chapter not to be construed to conflict with state or federal statutes.

This chapter shall not be construed so as to conflict with any state, federal, military or naval statute, order, rule or regulation.

(Code 1957, § 7-609)

Sec. 9-6. Disclaimer of municipal and certain private liability.

This chapter is an exercise by the city of its governmental functions for the protection of the public peace, health and safety, and neither the city, the agents and representatives of the city, or any individual, receiver, firm, partnership, corporation, association or trustee, or any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule or regulation promulgated pursuant to the provisions of this chapter shall be liable for any damage sustained to person or property as the result of the activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license or privilege, or otherwise permits the city to inspect, designate or use the whole or any part or parts of the real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under the license, privilege or other permission or for loss of, or damage to, the property of such person.

(Code 1957, § 7-610)

Sec. 9-7. Expenses of civil defense.

No person shall have the right to expend any public funds of the city in carrying out any civil defense activity authorized by this chapter without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the city council.

(Code 1957, § 7-611)

Sec. 9-8. Interference with members of civil defense organization.

It shall be unlawful for any person willfully to obstruct, hinder or delay any

member of the civil defense organization in the enforcement of any rule or regulation issued pursuant to this chapter, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this chapter.

(Code 1957, § 7-612)

Sec. 9-9. Impersonation of member of civil defense organization.

It shall also be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the civil defense organization of the city unless authority so to do has been granted to him by the proper officials.

(Code 1957, § 7-612)

Sec. 9-10. Penalty.

Any person violating any section of this article, shall for each violation, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars ($250.00), or imprisonment not to exceed fifteen (15) days, or by both such fine and imprisonment.

(Code 1957, § 10-1001; Ord. No. 1133/72, § 1, 7-11-72)

Secs. 9-11--9-19. Reserved.

ARTICLE II. MUNICIPAL CIVIL DEFENSE COUNCIL*

***State law references:** Local defense councils, McK. Unconsol. Laws, § 9115.

Sec. 9-20. Composition.

The City of Long Beach Municipal Civil Defense Council shall consist of the following:

(a) The director of civil defense who shall serve as chairman of the council.

(b) The executive aide to the director of civil defense who shall serve as vice-chairman of the council.

(c) The deputy directors of city divisions and the chiefs of services of such divisions as may be provided for by resolution of the city council.

(d) Representatives, not to exceed ten (10) in number, from civic, business, industry, labor, veterans, professional or other groups, to be selected and appointed by the city manager.

(Code 1957, § 7-601)

Sec. 9-21. Powers and duties.

The powers and duties of the municipal civil defense council shall include the recommendation for adoption by the city council of a civil defense plan for the city and the recommendation for adoption by the city council of any and all mutual aid plans and agreements which are deemed essential for the implementation of such civil defense plan. The duties of the municipal civil defense council shall also include a continuing study of the need for amendments and improvements in the civil defense plan adopted by the city council.

(Code 1957, § 7-602)

Sec. 9-22. Meetings.

The municipal civil defense council shall meet upon the call of either its chairman or vice-chairman.

(Code 1957, § 7-602)

Secs. 9-23--9-32. Reserved.

ARTICLE III. CIVIL DEFENSE ORGANIZATION

Sec. 9-33. Composition.

The operational civil defense organization of the city shall consist of the officers and employees of the city designated by the director of civil defense as well as all volunteer municipal defense workers. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the federal government and the recommendations of the civil defense agency of the state.

(Code 1957, § 7-604)

Sec. 9-34. Office of director of civil defense created; city manager to be director.

The office of director of civil defense is hereby created. The city manager shall be the director of civil defense.

(Code 1957, §§ 7-601, 7-603)

Sec. 9-35. Authority, duties and responsibilities of the director.

(a) The director of civil defense shall have the authority to declare the existence of an emergency or request such declaration by a higher authority.

(b) The duties and responsibilities of the director of civil defense shall include the following:

(1) The control and direction of the actual or training efforts of the civil defense organization of the city.

(2) The determination of all questions of authority and responsibility that may arise within the civil defense organization of the city.

(3) The maintenance of necessary liaison with other municipal, area, state, regional, federal or other civil defense organizations.

(4) The marshaling, after the declaration of an emergency as provided for above, of all necessary personnel, equipment or supplies from any department of the city to aid in the carrying out of the civil defense plan.

(5) The issuance of all necessary proclamations as to the existence of an emergency and the immediate operational effectiveness of the civil defense plan.

(6) The issuance of reasonable rules and regulations which are necessary for the protection of life and property in the city including, but not limited to, rules and regulations applicable to blackouts and air raids.

(7) The supervision of the drafting and execution of mutual aid agreements entered into by the city.

(8) The supervision of and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private

contributions.

(9) The authorizing of agreements, after approval of the corporation counsel, for the use of private property for air-raid shelter and other purposes.

(Code 1957, § 7-603)

Sec. 9-36. Executive aide to the director of civil defense: Office created; appointment; duties.

(a) The office of executive aide to the director of civil defense is hereby created; he shall have such authority as is delegated by the director of civil defense and he shall receive such salary as is fixed by the city council. The executive aide to the director of civil defense shall be appointed by the director of civil defense, and serve at the pleasure of the director of civil defense.

(b) The executive aide to the director of civil defense shall be charged with the preparation of the civil defense plan for the city, together with such other duties as the director of civil defense may prescribe.

(Code 1957, §§ 7-601, 7-603.1)

Chapter 10 ELECTRICAL CODE*

***Cross references:** Signs, § 3-1 et seq.; building code, Ch. 7; fire prevention and protection, Ch. 11; housing and property rehabilitation and conservation code, Ch. 13; plumbing code, Ch. 21.

Art. I. In General, §§ 10-1--10-13
Art. II. Administration and Enforcement, §§ 10-14--10-29
Art. III. Electricians, §§ 10-30--10-61
Div. 1. Generally, §§ 10-30--10-39
Div. 2. Licenses, §§ 10-40--10-54
Div. 3. Board of Examiners of Electricians, §§ 10-55--10-61
Art. IV. Electrical Requirements, § 10-62
Art. V. Electrical Standards, §§ 10-63, 10-64

ARTICLE I. IN GENERAL

Sec. 10-1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them:

Appliances shall mean all electrical apparatus or fittings, except fuse renewals, incandescent lamp renewals and portable devices which, together with their cables and attachments, have been approved for connection to appropriate parts of the permanent electrical equipment.

Building shall mean any structure, edifice or enclosure, whether roofed or unroofed.

Electrical inspection agency shall mean an individual, partnership, corporation or other business entity whose primary function is to conduct inspections of electrical work within the city to ensure that such work is in conformity with the city Code of Ordinances, New York State Uniform Fire Prevention and Building Code, National Electrical Code and any other applicable codes.

Journeyman electrician shall mean a person in the employ of or working under the supervision of a master or employing electrician, as defined in this section, who does the actual work of installing, setting up or putting together electrical systems, wiring or equipment. It shall not include apprentices or helpers, who work in the presence of or under the direct supervision of a journeyman electrician.

License shall mean the authorization issued by the city clerk pursuant to this chapter, of which there shall be three (3) classes, to wit:

(1) *Class A:* Class A license shall be the license issued by the city clerk to a master or employing electrician, after fulfilling requirements of the electrical board of examiners.

(2) *Class C:* Class C license shall be the restricted license issued by the city clerk to permit the holder thereof, after examination of competency and

approval by the electrical board of examiners, to engage in the installation or alteration of electrical wiring and equipment of a special nature, limited to installations, replacements and repairs of oil burners, gas burners and similar equipment.

(3) *Class D:* Class D license shall be the restricted license issued by the city clerk to permit the holder thereof, after examination of competency and approval by the electrical board of examiners, to engage in the repair and replacement and installation of equipment up to fifty (50) volts AC or DC, such as burglar alarms, fire alarms and communication systems.

Master or employing electrician shall mean a person established in the electrical business as an individual, member of a partnership or officer of a corporation, engaged by contract or otherwise, in the work of installing, setting up or putting together any electrical system, wires or equipment and appurtenances of any kind in or on buildings or premises.

New York Board of Fire Underwriters Final Certificate shall mean the certificate of the electrical inspector that the installation, alteration or repair of electric wiring or appliances for light, heat or power in a building has been inspected and is approved by the city, either temporarily or finally.

(Code 1957, § 2-506.1; Ord. No. 1448/81, § 1, 5-19-81; Ord. No. 1732/90, § 1, 8-21-90; Ord. No. 1906/98, § 1, 11-17-98; Ord. No. 3052/21, 07-06-2021)

Sec. 10-2. Federal buildings exempt from this chapter.

Nothing in this chapter shall be construed to apply to any building the electrical equipment of which is under the control of the United States government, or of any department or officer thereof.

(Code 1957, § 2-506.4; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-3. Electrical code standards adopted.

No electrical wiring or installation of electrical apparatus or appliances for furnishing light, heat or power shall be introduced into or placed in any building or structure by any master electrician except in compliance with the current code and requirements of the National Fire Protection Association, known as the National Electrical Code, and the rules and regulations of the current edition of that code are hereby made a part of this chapter with the same force and effect as though they were fully set forth herein.

(Code 1957, § 2-506.12; Ord. No. 1448/81, § 2, 5-19-81; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-4. Penalty for violation of chapter.

Any individual, agent or employee thereof, who shall engage in or work at the business of installing or making repairs, alterations, additions or changes to existing systems of wiring or electrical apparatus for heat, light or power as a master electrician without obtaining a license therefor pursuant to this chapter, or who shall violate any of the provisions of this chapter or any rule or regulation made pursuant thereto, or who, having had a license revoked, shall continue to engage in or work at such business,

shall upon conviction thereof, be subject to a fine of not less than two hundred fifty dollars ($250.00) and not more than one thousand dollars ($1,000.00) or imprisonment not to exceed fifteen (15) days, or by both such fine and imprisonment, and each day on which such violation continues shall constitute a separate offense, except where another penalty is provided. In addition to the penalty imposed, the license issued pursuant to this chapter of the person violating this chapter may be revoked.

(Code 1957, § 2-506.14; Ord. No. 1133/72, § 1,7-11-72; Ord. No. 1732/90, § 1, 8-21-90; Ord. No. 3052/21, 07-06-2021)

Secs. 10-5--10-13. Reserved.

Sec. 10-4. Penalty for violation of chapter.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 10-14. Persons eligible to perform electrical work.

All electrical work must be performed by a master licensed electrician. Such master licensed electrician must be licensed in the City of Long Beach.

(Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-15. Application for inspection prerequisite to making electrical installation.

It shall be a violation of this chapter for any person to install or cause to be installed or to alter, electrical wiring for light, heat or power in or on properties of the city until an application for inspection has been first filed with an authorized electrical inspection agency.

(Code 1957, § 10-204.1(c); Ord. No. 877, § 1, 3-5-68; Ord. No. 1732/90, § 1, 8-21-90; Ord. No. 1906/98, § 1, 11-17-98)

Sec. 10-16. Electrical inspectors designated; inspection costs not chargeable to the city.

The building commissioner shall designate and authorize those electrical inspection agencies that meet all "qualification requirements" to conduct electrical inspections and reinspections of all electrical installations, electrical wiring, materials, apparatus or appliances hereinafter described, and to approve or disapprove the same. The building commissioner shall establish said "qualification requirements" for electrical inspection agencies, including minimum requirements for said agencies "chief electrical inspector" and all subordinate electrical inspectors of same. It shall be the building commissioner's discretion to determine whether a particular electrical inspection agency meets those "qualification requirements." In no event shall the cost or expense of inspections of re-inspections as described in this chapter be a charge against the city.

(Code 1957, § 10-204.1(a); Ord. No. 877, § 1, 3-5-68; Ord. No. 1732/90, § 1, 8-21-90; Ord. No. 1906/98, 11-17-98)

Cross references: Electrical inspector to approve applications for signs using electrical apparatus, § 3-8.

Sec. 10-17. Duties of the electrical inspector.

(a) It shall be the duty of the electrical inspector to report in writing to the building commissioner, whose duty it shall be to enforce all provisions of this chapter, all violations or deviations from or omissions of the provisions of this chapter applicable to the city and of all local laws, city ordinances and the state building code insofar as any of them apply to electrical wiring. The electrical inspector shall make inspections and reinspections of electrical installations in and on properties in the city upon the written request of an authorized official of the city or as provided in this article. The electrical inspector is authorized to make

inspections and reinspections of electrical wiring, installations, devices, appliances and equipment in or on properties within the city where he deems it necessary for the protection of life and property. In the event of an emergency, it is the duty of the electrical inspector to make electrical inspections upon the oral request of an official or officer of the city.

(b) It shall be the duty of the electrical inspector to furnish written reports to the proper officials of the city and to owners or lessees of property where defective electrical installations and equipment are found upon inspection.

(c) The electrical inspector shall authorize the issuing of a final certificate when electrical installations and equipment are in conformity with this chapter; the electrical inspector shall direct that a copy of the final certificate be sent to the city to the attention of the building commissioner.

(Code 1957, § 10-204.1(b); Ord. No. 877, § 1, 3-5-68; Ord. No. 1732/90, § 1, 8-21-90; Ord. No. 1906/98, § 1, 11-17-98)

See. 10-18. Electrical connections not to be made prior to the issuance of a temporary certificate.

It shall be unlawful for any person to connect or cause to be connected any electrical wiring in or on properties for light, heat or power, to any source of electrical energy supply, prior to the issuance of a temporary certificate by an authorized electrical inspection agency.

(Code 1957, § 10-204.1(c); Ord. No. 877, § 1, 3-5-68; Ord. No. 1732/90, § 1, 8-21-90; Ord. No. 1906/98, 11-17-98)

Sec. 10-19. Insurance for electrical inspection agencies.

Any electrical inspection agency certified and approved to perform electrical inspections in the city must carry public liability insurance. Such insurance shall:

(1) Name the city as an additional insured;

(2) Shall have not less than ten million dollars ($10,000,000) for all damages arising out of bodily injury to one person;

(3) Shall have not less that ten million dollars ($10,000,000.00) for damages arising out of bodily injury in any one (1) accident;

(4) Shall have not less than ten million dollars ($ 10,000,000.00) for property damage;

(5) A valid and current certificate of insurance shall be filed with the city clerk and the building department; and

(6) Said insurance shall remain in full force and effect throughout the period such electrical inspection agency performs electrical inspections in the city. Said insurance shall provide that no cancellation or material modification of such policy shall be made unless at least fifteen (15) days prior written notice thereof is given by registered or certified mail to the buildingcommissioner of the city and the city clerk.

(Ord. No. 1906/98, § 1, 11-17-98)

Secs. 10-20--10-29. Reserved.

Sec. 10-19. Insurance for electrical inspection agencies.

ARTICLE III. ELECTRICIANS

DIVISION 1. GENERALLY

Secs. 10-30--10-39. Reserved.

DIVISION 2. LICENSES

Sec. 10-40. When required.

No person shall, within the city, engage in, carry on or work at the business of installing, repairing, altering or making additions or changes to existing systems of electrical wiring or electrical apparatus for heat, light or power as a master electrician without first having passed an examination and obtained and paid for, and having in full force and effect, a license as provided in this division.

(Code 1957, § 2-506.6; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-41. Employment of unlicensed electricians.

It shall be unlawful for any person to employ any person not licensed as a master electrician pursuant to this division to do any electrical construction work in the city.

(Code 1957, § 2-506.13; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-42. Persons eligible for license.

(a) No applicant for a Class A license shall be examined unless he shall be of good moral character and able to give satisfactory evidence of experience as at least one of the following:

(1) An employing electrical contractor who has had an established business for at least seven (7) years in the installation, alteration and repair of electrical wiring or equipment; or whose experience as a journeyman electrician and as an employing contractor totals at least seven (7) years; or

(2) A journeyman electrician who has worked as a journeyman for at least seven (7) years on the physical installation, alteration and repair of electrical wiring and equipment; or

(3) Any combination of the qualifications as set forth in subsections 10-42(a) and (b) whose experience totals at least seven (7) years; or

(4) A graduate engineer of a college or university who holds at least a Bachelor of Science degree in electrical engineering and has in addition worked at least three (3) years on the physical installation, alteration and repair of electrical wiring and equipment.

(b) No applicant for a Class C or D license shall be examined unless it is shown by satisfactory evidence that such person has had a minimum of three (3) years

experience in the special installations permitted under a Class C or D license, respectively.

(c) Persons who have electrical licenses of the Town of Hempstead. Notwithstanding anything to the contrary contained in this chapter, any person who holds a valid current license to conduct the trade or business of a master or employing electrician, duly issued by the Town of Hempstead, in Nassau County, New York, after having passed an examination given by the examining board of electricians of the said Town of Hempstead, shall be deemed to be competent to conduct that business in the city, and shall not be required to take such examination given by the examining board of electricians of the city, but they must comply with and shall be subject to and bound by all other provisions and requirements of this chapter, and by all rules and regulations adopted pursuant hereto.

(Code 1957, § 2-506.11(b), (c); Ord. No. 1260/74, § 1, 11-26-74; Ord. No. 1448/81, § 3, 5-19-81; Ord. No. 1732/90, § 1, 8-21-90; Ord. No. 1956/02, § 1, 6-4-02)

Sec. 10-43. Fees.

(a) There shall be charged and collected by the city a fee of four hundred eighty dollars ($480.00) for each license issued under the provisions of this division, and thereafter, a fee of three hundred sixty dollars ($360.00) for each two-year renewal of such license, provided an application for each renewal, accompanied by the renewal fee, shall have been made prior to the expiration of the existing license.

(b) Each applicant for a license required by this division, at the time he files his application therefor, shall pay a fee of thirty dollars ($30.00) for each examination for such license to cover the cost of such examination.

(c) Any licensee who fails to properly file his application for renewal prior to December first of any year shall be required to file a new original application, pass a re-examination, pay an examination fee of thirty dollars ($30.00) and pay a three hundred thirty dollar ($330.00) fee for a new license.

(d) Any applicant who fails to attain a minimum passing mark in the test will not be eligible for another test until after the expiration of thirty (30) days. After second failure, applicant must wait ninety (90) days for another test. If applicant fails the third test, he will not be eligible for retesting for one calendar year.

(Code 1957, § 2-506.8; Ord. No. 1029/71, § 1, 3-2-71; Ord. No. 1260/74, § 1, 11-26-74; Ord. No. 1420/80, § 2, 6-3-80; Ord. No. 1448/81, § 4, 5-19-81; Ord. No. 1555/84, § 7, 10-16-84; Ord. No. 1732/90, § 1, 8-21-90; Ord. No. 1926/99, § 1, 10-5-99; Ord. No. 2021/07, § 1, 11-7-07; Ord. No. 3007/16, § 1, 5/24/2016; Ord. No. 3049/21, 05-04-2021)

Sec. 10-44. Issuance.

Upon filing of the required paid liability insurance policy in the amount of five hundred thousand dollars ($500,000.00), and the payment to the city of the license fee herein provided, the city clerk shall, except as herein provided, issue to the applicant a license which shall become effective on the date of issuance.

(Code 1957, § 2-506.7; Ord. No. 1191/73, § 1, 12-18-73; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-45. Form.

All licenses shall be numbered in the order in which they are issued and shall state clearly the name and address of the licensee and the fee paid.

(Code 1957, § 2-506.7; Ord. No. 1191/73, § 1, 12-18-73; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-46. Procedure for changing business address from that designated in license.

No person licensed pursuant to this division shall carry on the business at or from any other place than the one designated in the license therefor, without first having notified the board of examiners of electricians and the city clerk of the change and having had the same endorsement on the license.

(Code 1957, § 2-506.11; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-47. License period.

Licenses issued to electricians shall be for two (2) years beginning the first day of December and shall expire on the last day of November two (2) years thereafter. Initial licenses, regardless of the date of issuance, shall expire on the last day of November two (2) years thereafter.

(Code 1957, § 2-506.7; Ord. No. 1191/73, § 1, 12-18-73; Ord. No. 1732/90, § 1, 8-21-90; Ord. No. 1926/99, § 1, 10-5-99)

Sec. 10-48. Revocation generally.

Any license issued pursuant to this division may be revoked at any time by the board of examiners of electricians if the licensee or any person performing any work under his license willfully violates any provision of this chapter or other city ordinance or any law relating to electrical construction or is responsible for any electrical installation which is a hazard to life or property. Whenever any license shall be so revoked, no refund of any unearned portion of the fee shall be made. Notice of the revocation and the reason therefor, in writing, shall be served by the board of examiners of electricians upon the person whose license is revoked, and a copy thereof shall be filed with the city clerk.

(Code 1957, § 2-506.9; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-49. Grounds for revocation or suspension.

A license issued pursuant to this division may be suspended or revoked by the board of examiners of electricians for violation of any of the provisions of this chapter and also for any of the following causes:

(1) The failure to display the license at the licensee's established place of business.

(2) The failure to display a sign of permanent construction indicating the name and nature of the licensee's business, in a conspicuous manner.

(3) The failure to have a permanent place of business in accordance with the

rules of the board of examiners of electricians.

(4) The failure to file an application for a certificate of inspection prior to beginning work.

(5) The failure, upon receipt of a "violation" notice, to take the action called for by the notice.

(6) The performance of any electrical work in a manner contrary to the rules and regulations promulgated by the board of examiners of electricians.

(7) The transfer or assignment, or attempted transfer or assignment, of a license by the licensee to any other person.

(8) The lending or renting of a license, or permitting the use of a license by anyone other than the licensee.

(9) The conviction of the licensee for commission of crime.

(10) The making of a false statement in an application to obtain a license or renewal thereof.

(11) Any other improper or fraudulent practice shown to the satisfaction of the board of examiners of electricians to exist after a hearing.

(Code 1957, § 2-506.10; Ord. No. 1448/81, § 5, 5-19-81; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-50. Utilization of licenses.

All master or employing electricians licensed under this article may operate within the City only one (1) business which performs electrical work. The license shall not be shared between any businesses in which the licensed electrician is a shareholder, partner or member, unless that further business has a licensed master electrician.

(Ord. No. 1888/98, § 1, 4-7-98)

Sec. 10-51. Display of license.

Electricians shall be issued by the city clerk a vehicle decal for each vehicle identified by the licensee as a vehicle which will be used in connection with the licensed activities. Such vehicle decals shall be conspicuously displayed in the vehicle(s) used in connection with the licensed activities during the term of the license, and shall be removed upon expiration, suspension or revocation of said license. The first two (2) decals will be included in the fee for the license and a fee of twelve dollars ($12.00) will be charged for each additional or replacement decal. Failure to display said decal shall be punishable by a minimum fine of one hundred twenty dollars ($120.00).

(Ord. No. 2022/07, § 2, 11-7-07; Ord. No. 3007/16, § 1, 5/24/2016)

Secs. 10-52--10-54. Reserved.

DIVISION 3. BOARD OF EXAMINERS OF ELECTRICIANS

Sec. 10-55. Created; composition.

There shall be a board of examiners of electricians which shall consist of five (5) members.

(Code 1957, § 2-506; Ord. No. 1448/81, § 6, 5-19-81; Ord. No. 1535/84, § 3, 4-18-84; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-56. Appointment, removal and compensation of members.

The members of the board of examiners of electricians shall be appointed and removed by the city manager. The members of the board of examiners of electricians shall serve without compensation.

(Code 1957, § 2-506, 2-506.2(f); Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-57. Qualifications of members.

The five (5) members of the board of examiners of electricians shall consist of the following:

(1) The commissioner of public works.

(2) The building commissioner.

(3) An underwriter's electrical inspector.

(4) Two (2) master or employing electricians.

(5) One (1) alternate master electrician.

(Code 1957, § 2-506.2(a)--(e); Ord. No. 1448/81, § 7, 5-19-81; Ord. No. 1535/84, § 4, 4-18-84; Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-58. Designation of chairman.

The chairman of the board of examiners of electricians shall be appointed by the city manager from the membership of the board.

(Code 1957, § 2-506.2(f); Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-59. Meetings.

The board of examiners of electricians shall meet at stated intervals and shall also meet whenever the city manager shall, in writing, request its members to do so. (Code 1957, § 2-506.3(a); Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-60. Quorum; vote required for certain actions.

Four (4) members of the board of examiners of electricians, including the chairman, who shall be entitled to vote, shall constitute a quorum of the board for the

transaction of business; but no recommendation for the issue, modification, suspension or revocation of a license shall be adopted except by the vote of four (4) members of the board. (Code 1957, § 2-506.2(f); Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-61. Powers and duties with respect to license examinations.

The board of examiners shall have the following powers and duties with respect to the examination of applicants for a license required by this article:

(1) It shall examine all persons desiring or intending to engage in the trade, business or calling of a master electrician in the city, with the power to examine persons applying for a New York Board of Fire Underwriters Final Certificate as a master electrician, to determine their fitness and qualifications for conducting the business of a master electrician and to issue New York Board of Fire Underwriters Certificates to all such persons who shall have satisfactorily passed an examination before the board and shall be by it determined to be qualified for conducting the business of a master electrician.

(2) It shall charge each person applying for examination the sum of twenty-five dollars ($25.00) for each examination made by it, and all moneys shall be paid by the applicant to the cashier of the city.

(3) The examination for a New York Board of Fire Underwriters Final Certificate shall be held by the board at the time and place to be specified by the board in its discretion, after an applicant has submitted all qualifying information requested by the board and said applicant has been certified as qualified to take the examination.

(4) It shall conduct meetings, and after a hearing at which all interested parties are afforded a sufficient opportunity to be heard, the board of examiners shall have the right to suspend or revoke any such licenses.

(5) It shall keep records of licenses issued, suspended, or revoked, which records shall be available for public inspection.

(6) It shall make such rules and regulations for the conduct of its business as it may deem necessary or proper.

(Code 1957, § 2-506.3(b), (c); Ord. No. 1448/81, § 8, 5-19-81; Ord. No. 1555/84, § 12, 10-16-84; Ord. No. 1732/90, § 1, 8-21-90)

ARTICLE IV. ELECTRICAL REQUIREMENTS

Sec. 10-62. Electrical requirements.

(a) *General requirements.* Existing electrical fixtures, devices, wiring and systems shall be maintained in safe working condition and in a manner which will avoid a potential source of ignition or shock and shall be properly connected to a reasonable, adequate source of electrical power. Any old, deteriorated, unused or unapproved materials and equipment shall be removed and replaced, as may be required, with approved materials and equipment. Existing electrical installations or systems shall further be installed in accordance with approved National Electrical Code standards in force at the time of installation. Any alterations, major repairs or additional installations shall comply with the requirements of the National Electrical Code and the city electrical code in existence at the time the work is performed. Fixed wiring, equipment, fixtures and devices shall be firmly secured to the surface on which they are mounted. Electrical wiring and equipment shall be protected against excessive current demands by properly rated overcurrent devices installed in approved locations. All panelboards shall be kept free from encumbrances and shall be accessible at all times.

(1) Each outlet and fixture shall be properly installed and maintained in a good and safe working condition.

(2) Extension cords which are not a part of a fixture shall not be permitted on a permanent or semipermanent basis as part of a branch circuit, or an extension of an existing circuit.

(b) *Additional requirements for hazardous locations.* Electrical installations or systems located in hazardous locations shall comply with the current National Electrical Code for the particular location or use. Systems existing on September 14, 1970, shall comply with this subsection within twelve (12) months from September 14, 1970.

(c) *Exceptions.* The commissioner may request other repairs, alterations, removal of or additional wiring, equipment, safety controls or methods, when he deems it necessary to assure safety to the occupants or users. He may further modify the requirements of this section for a particular location when, in his opinion, reasonable and adequate safety is assured by a different but equally safe installation. (Code 1957, § 10-1113; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1732/90, § 1, 8-21-90)

ARTICLE V. ELECTRICAL STANDARDS

Sec. 10-63. Wiring methods.

(a) No aluminum wire shall be used for electrical installations of any kind in any building or residence hereafter constructed. This restriction shall include alterations to existing buildings and replacement or repair on existing electrical service.

(b) There must be conduit rises in buildings that are three (3) stories and larger.

(c) Armored cable (BX) will not be permitted in any electrical installation in the city of Long Beach. (Ord. No. 1732/90, § 1, 8-21-90)

Sec. 10-64. Multiple dwellings to be marked properly.

All multiple dwellings shall have exterior door, or doors, leading to electric service rooms, legibly marked on door, or doors, "Service Equipment." (Ord. No. 1732/90, § 1, 8-21-90)

Chapter 11 FIRE PREVENTION AND PROTECTION*

***Cross references:** Fire limits and construction therein, § 7-71 et seq.; fire prevention, § 7-265 et seq.

Art. I. In General, §§ 11-1--11-16
Art. II. Reserved, §§ 11-17--11-47
Art. III. Fire Department, §§ 11-48--11-69
Art. IV. Board of Fire Commissioners, §§ 11-70--11-75
Art. V. Access to Criminal History Records, §§ 11-76--11-78
Art. VI. Emergency Ambulance Services, § 11-79

ARTICLE I. IN GENERAL

Secs. 11-1, 11-2. Reserved.

Editor's note: Ord. No. 1140/72, § 1, adopted Aug. 1, 1972, repealed and superseded sections of the 1957 Code from which former §§ 11-1 and 11-2 were derived.

Sec. 11-3. Sale or discharge of fireworks, firearms and other explosives.

(a) No person shall discharge or use any firearms, rockets, torpedoes, Roman candles or other explosives in any of the streets, highways, Boardwalk, beach or public places within the city.

(b) The sale of fireworks at retail in the city is prohibited. The fire commissioner or his representatives may at his discretion remove or have removed at the owner's expense all stocks of fireworks or other combustibles exposed for sale or held in stock in violation of this section.

(c) The city council may permit the public display of fireworks by properly authorized individuals if the display is of such a character and so located, discharged or fired as, in the opinion of the fire commissioner or his representatives, not be hazardous to surrounding property or any danger to any person.

(d) Any person, firm or corporation, violating any of the provisions of this section, shall be deemed guilty of an offense and be fined not less than five dollars ($5.00), nor more than two hundred fifty dollars ($250.00) for each day's violation.

(Code 1957, § 6-215.1; Ord. No. 1133/72, §§ 1, 2, 7-11-72)

Sec. 11-4. Reserved.

Editor's note: Ord. No. 1140/72, § 1, adopted Aug. 1, 1972, repealed and superseded section of the 1957 Code from which former § 11-4 was derived.

Sec. 11-5. Permission of the council required to construct and maintain a gasoline service station; procedure.

(a) Wherever by virtue of existing law a gasoline station may be erected and maintained in the city, it shall not be so erected and maintained until the council in its discretion shall have first granted permission therefor, upon written application setting forth:

(1) The name and address of the applicant;

(2) The location of the proposed station;

(3) The number of gasoline storage tanks proposed;

(4) The number of pumps proposed;

(5) The character of incidental appliances and appurtenances;

(6) The character of the structure in connection with the station.

(b) The council in its discretion may require further information and particulars in addition to those set out in subsection (a).

(c) After permission shall have been granted by the council, the applicant shall then conform himself and the proposed station to all of the provisions of law applicable to the station.

(d) Any person violating this section, shall on conviction thereof be subject to a fine of not exceeding two hundred fifty dollars, or imprisonment not exceeding fifteen (15) days, or both, for each violation.

(Code 1957, § 5-103.7; Ord. No. 1133/72, § 1, 7-11-72)

Secs. 11-6--11-18. Reserved.

Editor's note: Ord. No. 1140/72, § 1, adopted Aug. 1, 1972, repealed and superseded section of the 1957 Code from which former § 11-6 was derived.

Sec. 11-19. Use of certain portable heating facilities prohibited.

The use of portable appliances such as stoves, heaters or similar fuel-burning devices, using gasoline, kerosene or other similar flammable liquids for cooking or warming food, or heating purposes, is prohibited anywhere in the city.

(Code 1957, § 6-219)

Sec. 11-20. Fires in public places.

(a) No person shall build or cause to be built, ignite or cause to be ignited, any fire upon the street, highway nor upon a lot or uninhabited place within the city.

(b) Any person, firm or corporation violating this section shall be deemed guilty of an offense and fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for each violation.

Sec. 11-5. Permission of the council required to construct and maintain a gasoline service station; procedure.

(Ord. No. 1227/74, § 1, 6-4-74; Ord. No. 3007/16, § 1, 5/24/2016)

Sec. 11-21. Use of barbecue units on terraces of multiple dwellings are prohibited with the exception of units which utilize electric power.

(a) No barbecue of any kind shall be used, maintained, stored or otherwise kept on any terrace in a multiple dwelling within the city, with the exception of barbecues which utilize electric power.

(b) Any person violating this section shall be deemed guilty of an offense and shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00).

(Ord. No. 1636/87, § 1, 9-1-87; Ord. No. 1789/92, § 1, 10-8-92; Ord. No. 3052/21, 07-06-2021)

Secs. 11-22--11-24. Reserved.

Sec. 11-21. Use of barbecue units on terraces of multiple dwellings are prohibited with the exception of units which utilize electric power.

ARTICLE II. RESERVED*

***Editor's note:** Ord. No. 1663/88, § 1, adopted May 3, 1988, repealed Art. II, §§ 11-25--11-42, in its entirety. Former Art. II, fire prevention code, derived from the Code of 1957 and the following legislation:

Ord. No	Date	Ord. No.	Date
1140/72	8-1-72	1389/78	12-5-78
1145/72	10-3-72	1397/79	7-3-79
1153/72	12-12-72	1457/81	7-7-79
1171/73	6-5-73	1459/81	7-7-81
1194/73	12-18-73	1529/84	2-21-84
1229/74	7-2-74	1565/85	4-16-85
1381/78	9-5-78	1653/88	1-19-88

Section 2 of Ord. No. 1663/88 enacted new fire prevention provisions which are set out herein as §§ 7-265--7-270.

Secs. 11-25--11-47. Reserved.

Sec. 11-21. Use of barbecue units on terraces of multiple dwellings are prohibited with the exception of units which utilize electric power.

ARTICLE III. FIRE DEPARTMENT*

***Charter references:** Fire department, § 160 et seq.

Related acts reference--Volunteer firemen's benefits, § 38 et seq.

Related local laws reference--Hours of duty of uniformed firemen, § 1 et seq.

Sec. 11-48. Composition.

The fire department of the city shall consist of the Long Beach Volunteer Fire Department, the members of which shall receive no compensation, and a regular, uniformed force of men employed and paid for the purpose of fire prevention and fire extinguishment.

(Code 1957, § 2-411)

Sec. 11-49. Supervision of the department by the fire commissioner; appointment of the fire commissioner.

The entire fire department shall be under the direction and supervision of the fire commissioner, who shall be appointed by the city manager.

(Code 1957, § 2-411.7(a))

Sec. 11-50. Deputy fire commissioners.

(a) The city manager shall appoint a deputy fire commissioner who shall assume the duties of fire commissioner in his absence, or while the office of fire commissioner is vacant.

(b) The city manager shall appoint a second deputy fire commissioner who shall assume the duties of the deputy fire commissioner in his absence or while the office of deputy fire commissioner is vacant.

(c) The city manager shall appoint a third deputy fire commissioner who shall assume such duties as are conferred upon him by the fire commissioner.

(Code 1957, § 2-411.1(b); Ord. No. 703, § 1, 3-3-64; Ord. No. 1207/74, § 1, 3-5-74)

Sec. 11-51. Composition of regular, paid force.

The personnel of the regular, paid uniformed force shall consist of such officers and uniformed firemen as the city council may provide for by resolution.

(Code 1957, § 2-411.2; Ord. No. 1294/75, § 1, 10-7-75)

Sec. 11-52. Assignment of regular force.

The paid, uniformed force shall constitute a company to be stationed at fire headquarters, except that the board of fire officers may assign members of the paid department to such other stations in the city as it may deem necessary.

(Code 1957, § 2-411.3)

Sec. 11-53. Civil service requirements to be met for appointment to regular force.

No person shall be permanently appointed as a member of the regular uniformed force unless he shall have passed a physical and competitive examination held pursuant to the Civil Service Law for each of the positions established pursuant to this article, but nothing in this article shall be construed to affect the civil service status, rank or grade of such persons who may be presently employed in the paid fire company.

(Code 1957, § 2-411.4)

Sec. 11-54. Grounds for disciplinary action against members.

Any member of the fire department shall be subject to reprimand, suspension, dismissal or extra duty for any of the following causes:

(a) Intoxication while on duty or in uniform;

(b) Disobedience of orders of superior officer, or of rules and regulations set forth in the approved manual;

(c) Immorality, indecency or lewdness or other conduct unbecoming a fireman;

(d) Incompetence or incapacity to perform his duty;

(e) Conduct subversive of good order, discipline or the reputation of the fire department;

(f) Absence from duty without leave.

(Code 1957, § 2-411.7)

Sec. 11-55. Temporary suspensions pending disciplinary action.

The fire commissioner shall have the power to suspend temporarily, pending hearing, any member of the fire department charged with any of the grounds established in this article for disciplinary action, but the hearing shall be had not longer than fourteen (14) days after the suspension.

(Code 1957, § 2-411.8)

Sec. 11-56. Hearing of charges preferred against members.

Charges preferred or complaints filed against any member of the fire department under this article or for violation of the rules, regulations and bylaws authorized to be

promulgated by the board of fire commissioners shall be heard by the city manager as trial commissioner, or by his designee.

(Code 1957, § 2-411.9; Ord. No. 1371/78, § 1, 6-14-78)

Sec. 11-57. Command at fire scenes.

(a) The ranking officer of the volunteer fire department shall be in complete charge of all members of the force both paid and volunteer as well as in charge of all equipment and apparatus at fires.

(b) The succession of authority at all fires shall be:

(1) The chief of the volunteer department;

(2) The first assistant chief;

(3) The second assistant chief;

(4) The third assistant chief;

(5) A captain or lieutenant of the paid department on duty.

(Code 1957, § 2-411.10; Ord. No. 950/70, § 2, 2-3-70; Ord. No. 3011/17, § 1, 2-7-2017)

Sec. 11-58. Care and use of city equipment.

The care and use of any city equipment which may be allocated to the volunteer force shall be under the control of the board of fire officers.

(Code 1957, § 2-411.11)

Sec. 11-59. Training.

The fire commissioner shall establish and call at regular intervals such drills and schooling sessions as may be necessary for the proper training and practice of the members of the fire department.

(Code 1957, § 2-411.12)

Secs. 11-60--11-69. Reserved.

ARTICLE IV. BOARD OF FIRE COMMISSIONERS

Sec. 11-70. Composition.

The board of fire commissioners shall be composed of the following:

(a) The fire commissioner;

(b) The deputy fire commissioner;

(c) The second deputy fire commissioner;

(d) A member of the council designated by the council;

(e) The chief of the Long Beach Volunteer Fire Department;

(f) The first deputy chief of the volunteer fire department;

(g) The deputy chief of the paid fire department.

The fire commissioner shall act as chairman of the board of fire commissioners.

(Code 1957, § 2-411.5; Ord. No. 876, § 1, 2-6-68)

Sec. 11-71. Quorum.

A majority of the members of the board of fire commissioners shall constitute a quorum.

(Code 1957, § 2-411.6(a))

Sec. 11-72. Powers generally.

The board of fire commissioners shall have the following powers:

(a) It shall have the care, custody and control of all properties belonging to the fire department.

(b) It may promulgate rules for the admission, suspension, removal and discipline of the members, officers and employees of the fire department, may prescribe their powers and fix their duties.

(c) It shall have control and supervision of the members, officers and employees of the fire department and shall prescribe methods for the extinguishing of fires and make such rules and regulations and cause such inspections to be made as it may deem necessary for fire prevention.

(d) It may inquire into the cause and origin of fires occurring in the city and take testimony in relation thereto.

(e) It shall pass upon the fitness and capability of applicants for membership into the volunteer fire department, and all candidates for election as officers within the volunteer fire department.

(f) It may appoint, upon nomination of the fire commissioner, one (1) or

more, but no more than five (5), deputy fire chiefs who shall be selected from the ranks of former chiefs of the fire department, whose duties shall be described and assigned by the fire commissioner.

(Code 1957, § 2-311.6(b)--(g); Ord. No. 950/70, § 1, 2-3-70)

Sec. 11-73. Promulgation of rules and regulations.

The board of fire commissioners is authorized and empowered to adopt a code of rules, regulations and bylaws for the control, management and government of the fire department and for the regulating of the proceedings and its business.

(Code 1957, § 2-411.6)

Secs. 11-74, 11-75. Reserved.

ARTICLE V. ACCESS TO CRIMINAL HISTORY RECORDS

Sec. 11-76. Legislative intent.

This article is enacted in accordance with a policy requirement of the Division of Criminal Justice Services of the State of New York as a prerequisite for the police commissioner of the city to apply for and obtain the criminal history record of each applicant who applies for membership in the Long Beach Fire Department as part of an investigation of the applicant's past conduct as it relates to public safety and welfare, before such applicant is accepted as a member of the department.

(Ord. No. 1428/80, § 1, 8-19-80)

Sec. 11-77. Criteria.

In order to determine the kind of past conduct which would preclude any applicant from membership in the Long Beach Fire Department, the following criteria shall aid in such determination:

(a) Where an applicant has been convicted of any offense against any of the laws, ordinances, rules or regulations of the United States of America, the State of New York, County of Nassau, City of Long Beach, or any other municipality.

(b) Where an applicant has been discharged or suspended or denied membership in any other fire department.

(Ord. No. 1428/80, § 1, 8-19-80)

Sec. 11-78. Procedure.

(a) The police commissioner shall secure the applicant's fingerprints and shall thereupon forward the fingerprints to the New York State Division of Criminal Justice Services for the processing and return of a criminal history record of said applicant. Any fees for the said services shall be paid for by the city.

(b) Upon receipt of the applicant's criminal history record from the New York State Division of Criminal Justice Services, the police commissioner shall forward the same to the chairman of the Long Beach Board of Fire Commissioners.

(Ord. No. 1428/80, § 1, 8-19-80)

ARTICLE VI. EMERGENCY AMBULANCE SERVICES

Sec. 11-79. Establishing a fee schedule for emergency ambulance services provided by the city fire department.

(a) The following fees are heretofore established for emergency ambulance services provided by the city fire department involving basic life support (BLS):

Transportation . . . $1,445.00

Emergency care provided at scene (non-transport) . . . $100.00

Mileage, per mile . . . $32.00

(b) The following fees are heretofore established for emergency ambulance services provided by the city fire department involving advanced life support (ALS) level 1:

Transportation, including oxygen, oxygen immobilizing devices, defibrillator/monitor use . . . $1,675.00

Mileage, per mile . . . $32.00

(c) The following fees are heretofore established for emergency ambulance services provided by the city fire department involving advanced life support (ALS) level 2:

Transportation, including oxygen, oxygen immobilizing devices, defibrillator/monitor use/cardioversion, endotracheal intubation, central venous line, cardiac pacing, chest decompression, surgical airway, intraosseous line . . . $2,150.00

Mileage, per mile . . . $32.00

(Ord. No. 1800/93, § 1, 5-4-93; Ord. No. 1871/97, § 1, 1-21-97; Ord. No. 1954/02, § 1, 5-7-02; Ord. No. 1976/04, § 1, 3-16-04; Ord. No. 2016/07, § 1, 3-20-07; Ord. No. 2056/10, § 1, 7-6-2010; Ord. No. 2061/11, § 1, 12-6-2011; Ord. No. 3023/18, § 1, 9-4-2018)

Chapter 12 GARBAGE AND REFUSE*

***Cross references:** Roll-off containers or dumpsters, § 7-240 et seq.

Art. I. In General, §§ 12-1--12-17
Art. II. City Collections, §§ 12-18--12-31
Div. 1. Generally, §§ 12-18--12-29
Div. 2. Department of Sanitation, §§ 12-30, 12-31
Art. III. Recycling, §§ 12-32--12-44

ARTICLE I. IN GENERAL*

***Editor's note:** Ord. No. 1884/97, § 1, adopted June 17, 1997, amended the Code by repealing Art. I, §§ 12-1--12-3, and adding a new Art. I, §§ 12-1--12-4. Former Art. I pertained to similar subject matter, and derived from the Code of 1957, §§ 2-414.12(D) and 6-217; Ord. No. 3326-A, adopted July 5, 1960; Ord. No. 723, adopted July 7, 1964; Ord. No. 1133/72, adopted July 11, 1972; Ord. No. 1145/72, adopted October 3, 1972; Ord. No. 1153/72, adopted December 12, 1972; Ord. No. 1683, adopted January 3, 1989; and Ord. No. 1777/92, adopted April 7, 1992.

Sec. 12-1. Improper disposal of refuse.

(a) No person shall dump any ashes, garbage, refuse or debris on any land within the geographical boundaries of the city or upon those areas over which the city has jurisdiction (including but not limited to all streets, avenues, boulevards, roads, runways, alleys, sidewalks, public way, the land adjacent to the bulkhead on the bay front, the Ocean Beach Park, (as defined in section 18-13 of this Code), public parks and any vacant land or lots within the city), except with the prior written consent and permission of the city council.

(b) Any person committing an offense under the provisions of this section shall be guilty of a violation. Each occurrence shall constitute a separate and distinct violation. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct violation. Each violation, upon conviction, shall be punishable by a fine and/or imprisonment in accordance with the following schedule:

(1) Upon a first conviction, by a fine not less than one hundred dollars ($100.00) and not more than five hundred dollars ($500.00) or by imprisonment for a period not to exceed seven (7) days or by both such fine and imprisonment.

(2) Upon a second conviction, by a fine not less than two hundred fifty dollars ($250.00) and not more than one thousand dollars ($1,000.00) or by imprisonment for a period not to exceed ten (10) days or by both such fine and imprisonment.

(3) Upon a third conviction or subsequent conviction, by a fine not less than five hundred dollars ($500.00) and not more than two thousand five hundred dollars ($2,500.00) or by imprisonment for a period not to exceed fifteen (15) days or by both such fine and imprisonment.

(Ord. No. 1884/97, § 1, 6-17-97)

Sec. 12-2. Hospital and medical laboratory waste.

(a) No infectious waste material shall be dumped on any land within the geographical boundaries of the city or upon those areas which the city has jurisdiction (including but not limited to all streets, avenues, boulevards, roads, runways, alleys, sidewalks, public ways, the land adjacent to the bulkhead on the bay front, the Ocean Beach Park, as defined in section 18-13 of this Code, public parks and any vacant land or lots within the city).

(b) Any person committing an offense under the provisions of this section shall be guilty of a violation. Each occurrence shall constitute a separate and distinct violation. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct violation. Each violation, upon conviction, shall be punishable by a fine of not less than one thousand dollars ($1,000.00) and not more than ten thousand dollars ($10,000.00) or by imprisonment for a period not to exceed fifteen (15) days or by both such fine and imprisonment.

(c) The provisions of the New York Public Health Law and the Rules and Regulations of the Health Department fo the State of New York shall control the interpretation of this section.

(Ord. No. 1884/97, § 1, 6-17-97)

Sec. 12-3. "Person" defined.

The word "person" as used in this chapter shall be construed to include any individual, association, firm, partnership, corporation, company or other entity and includes any officer, employee, department or agency of the above.

(Ord. No. 1884/97, § 1, 6-17-97)

Sec. 12-4. Penalties.

Where a penalty is not specified, any person who commits an offense under the provisions of this chapter shall be guilty of a violation. Each occurrence shall constitute a separate and distinct violation. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct violation. Each violation, upon conviction, shall be punishable by a fine not exceeding two hundred fifty dollars ($250.00), or by imprisonment not exceeding fifteen (15) days or by both such fine and imprisonment.

(Ord. No. 1884/97, § 1, 6-17-97)

Secs. 12-5--12-17. Reserved.

ARTICLE II. CITY COLLECTIONS

DIVISION 1. GENERALLY

Sec. 12-18. Persons in charge of premises to provide receptacles for garbage; location.

(a) It shall be the duty of each owner, lessee, tenant, householder, occupant, superintendent or manager of any building, premises or place of business in the city where garbage, refuse or ashes is produced, accumulated or exists, to provide himself or cause to be provided, and at all times to keep in the building or upon the premises or place of business, suitable and efficient receptacles fitted with tight covers for receiving and holding, without leakage, all garbage that may accumulate from the building, place of business or premises, or portion of the premises of which the person may be the owner, tenant, lessee, occupant, superintendent or manager.

(b) Each receptacle required by subsection (a) for the reception and retention of garbage shall be kept on the premises no nearer to the street than the building line of the premises; and the receptacles shall not remain on any sidewalk or in any exposed place longer than may be necessary for the removal of the contents thereof, and the receptacles shall at all times be kept securely closed and covered.

(c) The receptacles required by subsection (a) shall have a bail or handles for convenience in handling and shall be placed and kept at all times other than the period for the collection of the contents thereof, in a place sheltered from snow and inclement weather and safe from the interference of dogs and cats and sufficiently removed from the adjoining premises to prevent any offense thereto.

(d) It shall be unlawful and a violation of this chapter for any person, firm or corporation specified in subsection (a) to install, cause to be installed or permit to exist after July 1, 1988, any in-ground receptacle or storage space designed for the accumulation of garbage or refuse, all or any portion of which is below the level of the adjoining ground.

(Code 1957, § 2-414.12; Ord. No. 1657/88, § 1, 4-5-88; Ord. No. 3052/21, 07-06-2021)

Sec. 12-19. Regulations to be promulgated by city manager concerning collection of garbage and refuse.

The city manager is authorized and empowered to promulgate rules and regulations concerning all details and requirements in connection with the times, places and manner of collection of garbage and refuse, and details and requirements as to times, places and manner of placement of garbage and refuse for collection. Such rules and regulations shall have all of the force and effect of a provision of this Code of Ordinances from and after the dates therein specified when published in the official newspaper of the City of Long Beach.

(Ord. No. 1658/88, § 1, 4-5-88)

Editor's note: Ord. No. 1658/88, § 1, adopted April 5, 1988, repealed § 12-19 in its

entirety and enacted new provisions therefor. Former § 12-19 was concerned with receptacles for refuse other than garbage and derived from the Code of 1957, § 2-414.12.

Sec. 12-19.1. Reserved.

Editor's note: Section 12-19.1, relating to recycling newspapers, derived from Code of 1957, § 2-414(c)(5)(a), (b), and Ord. Nos. 1126/72, 1144/72 and 1633/87, was repealed by § 1 of Ord. No. 1787/92, adopted Sept. 1, 1992. See art. III of this chapter, § 12-32 et seq.

Sec. 12-20. Noncollectible refuse.

No dirt, earthen matter, ashes nor construction or demolition debris shall be collected as refuse, and such materials shall not be placed or deposited for collection as refuse.

(Ord. No. 1658/88, § 2, 4-5-88)

Editor's note: Ord. No. 1658/88, § 2, adopted April 5, 1988, repealed § 12-20 in its entirety and enacted new provisions therefor. Former § 12-20 was concerned with separate receptacles for dirt and ashes, and derived from the Code of 1957, § 2-414.12.

Sec. 12-21. Placement of containers for collection.

In all residential areas of the city it shall be unlawful to keep any garbage or refuse receptacle required by this division at any place other than one no closer to the curb than the building line nor farther from the curb than twenty (20) feet from the building line. In commercial areas, in premises having an alley to the rear or side thereof, the receptacles shall be kept on the side of the building adjacent to the alley against the building; in premises having no alley but having a driveway, the receptacles shall be kept in the driveway in the same location as that described in this section for residential areas; in premises having no driveway or alley, the receptacles may be kept on the sidewalk, for the period permitted by this division, against the side of the building.

(Code 1957, § 2-414.12)

Sec. 12-22. Cleanliness of receptacles.

All garbage receptacles and all other receptacles required by this division shall be kept clean and in a sanitary condition by the owners thereof.

(Code 1957, § 2-414.12)

Sec. 12-23. Service charges for collection of garbage imposed on commercial establishments.

(a) The department of sanitation shall collect garbage, refuse and ashes from all commercial establishments upon the payment in advance of the quarter-annual service charges fixed for each such respective establishment, which charges shall be billed on the first day of each of the months of July, October, January and April in each fiscal year, and shall be paid quarter-annually by the owner or

operator of each such establishment on or before the tenth day of each such respective month. If such payment is not received by the City of Long Beach from the owner or operator of such establishment on or before the tenth day of each such respective month, then upon notice of such default to the owner of the subject premises upon which the commercial establishment is operating, the owner of said premises is required to pay such quarter-annual service charges within ten (10) days after notice of such default is given to such owner of said premises.

(1) *Commercial use:* The charge for each commercial establishment shall be based upon a survey conducted by the city, which survey shall be available for inspection by any person affected by the same, computed at the rate of twenty-four dollars and fifty cents ($24.50) per cubic yard, as disclosed by such survey. Such survey shall remain effective until it shall be superseded by a subsequent survey.

(2) Anything contained in the preceding paragraph (1) notwithstanding, the collection charge for hotels, adult homes, convalescent homes, nursing homes and other similar establishments shall be one hundred seventy two dollars ($172.00) per annum per unit.

(3) *Long Beach housing authority:* the charge for each building owned and/or operated by the housing authority shall be based on a survey conducted by the city, which survey shall be available for inspection by the housing authority. Based on the cooperation agreements entered into between the city and the housing authority, unless there is an agreement to the contrary, the user fee shall be based on a per cubic yard usage, as disclosed by the survey and shall be computed at a rate of seventy-five (75) percent of the commercial use as set forth in (a)(1) above. The survey shall remain effective until it shall be superseded by a subsequent survey. If the owner or operator of the commercial establishment or the landlord or owner of the subject premises upon which any commercial establishment operates disputes or shall make a complaint concerning the inequities in the application of the foregoing collection charges, such dispute or complaint must be made in writing to the city manager within thirty (30) days from the date the charges are billed.

The city manager may hear, investigate and determine any complaints concerning specific charges or inequities in the application of such charges and may make equitable adjustments on the basis of the foregoing criteria.

(b) The minimum collection charge for any commercial establishment shall be one hundred ten dollars ($110.00) per quarter.

(c) *Storage:*

(1) All commercial garbage and refuse shall be placed in plastic, sealed bags at curbside, no larger than twenty (20) gallons' capacity.

a. In no event shall there be any oil or grease left for the city's curbside collection program. The owner, manager and/or operator of the commercial establishment shall be responsible for the proper disposal and labeling of such refuse by private collection.

(2) All cardboard and paper shall be broken down, baled or tied.

Sec. 12-23. Service charges for collection of garbage imposed on commercial establishments.

(3) If a compactor is utilized, the maximum compacted weight per bale shall not exceed forty (40) pounds.

(d) Notwithstanding the provisions of this Code or any other city ordinance, all fees and charges for the collection of garbage, refuse and ashes by the department of sanitation provided for by this section shall be payable in advance by any seasonal commercial establishment for the period from the date of the issuance of a license under an applicable provision of this Code or other city ordinance to the last day of September of the then current year where the charge is on a seasonal basis; or for the period from the date of the issuance of a license under an applicable provision of this Code or other city ordinance to September tenth of the then current year where the charge is on a monthly basis.

(e) In the event of nonpayment of the fees fixed in this section, collection service may be discontinued; and, if payment is not made within thirty (30) days after the due date, a penalty shall be imposed at the rate of one and one-half (1 1/2) percent per month from the date payment is due until the date payment is made.

(f) Notwithstanding any prior provision of this section, all fees and charges for the collection of garbage, refuse and ashes by the department of sanitation from the housing authority as provided in this section shall be payable at the end of the month following the collection. Billing shall be made at the end of the month and shall be payable within thirty (30) days of the housing authority being billed.

(g) The owner or owners of every parcel of commercial real property shall pay a base charge of ten dollars ($10) per front foot of real property, to the city annually in advance, one-half (1/2) on July 1 of each year, beginning July 1, 2016, and one-half (1/2) on January 1 of each year, beginning January 1, 2017

(Code 1957, § 2-414.12(A--C); Ord. No. 460-N, § 1, 7-5-60; Ord. No. 460-0, § 1, 9-6-60; Ord. No. 460-P, § 1, 10-4-60; Ord. No. 780, § 1, 3-1-66; Ord. No. 861, § 1, 10-3-67; Ord. No. 1097/71, §§ 1--3, 11-29-71; Ord. No. 1129/72, § 1, 6-6-72; Ord. No. 1147/72, § 1, 10-3-72; Ord. No. 1192/73, § 1, 12-18-73; Ord. No. 1261/74, § 1, 11-26-74; Ord. No. 1300/75, § 1, 11-18-75; Ord. No. 1401/79, § 1, 8-21-79; Ord. No. 1408/79, §§ 1, 2, 12-18-79; Ord. No. 1412/80, §§ 1, 2, 3-4-80; Ord. No. 1468/82, § 1, 3-16-82; Ord. No. 1491/83, § 1, 2-1-83; Ord. No. 1548/84, § 1, 5-29-84; Ord. No. 1632/87, § 3, 7-21-87; Ord. No. 1719-90, § 1, 4-3-90; Ord. No. 1771/92, § 1, 1-7-92; Ord. No. 1782/92, § 1, 6-16-92; Ord. No. 1884/97, § 1, 6-17-97; Ord. No. 1913/99, § 1, 4-20-99; Ord. No. 1921/99, § 1, 7-6-99; Ord. No. 1958/02, § 1, 6-18-02; Ord. No. 1990/04, § 1, 7-20-04; Ord. No. 2090/14, § 1 ,6/17/2014; Ord. No. 3004/16, § 1 ,5/17/2016)

Sec. 12-24. Sanitation charges for collection of garbage imposed on residential properties.

(a) The owner or owners of every parcel of real property in the city in which one (1) or more residential units is or are located shall pay to the city annually in advance one-half (1/2) on July 1 of each year, beginning July 1, 2018, and one-half (1/2) on January 1 of each year, beginning January 1, 2019, sanitation charges in the amount of five hundred eighty-five dollars ($605.00) for each residential unit contained in such parcel of property for the collection of garbage, paper and refuse from said premises.

(b) Bills for such residential sanitation charges shall be mailed to each such owner or

other person to whom tax bills for said premises are mailed, and shall be due and payable and shall become a lien on such premises one-half (1/2) on July 1 and one-half (1/2) on January 1 of each year in advance, and may be paid without interest or penalty on or before July 31 and January 31 next succeeding the due date. If July 31 or January 31 falls on a Saturday, Sunday or legal holiday, such residential sanitation charge may be paid without penalty not later than the next business day.

(c) The failure to mail or to receive a bill for any sanitation charges shall not affect the validity of any such sanitation charge.

(Ord. No. 1548/84, § 2, 5-29-84; Ord. No. 1750/91, § 1, 4-16-91; Ord. No. 1778/92, § 1, 4-21-92; Ord. No. 1884/97, § 1, 6-17-97; Ord. No. 1921/99, § 1, 7-6-99; Ord. No. 1958/02, § 1, 6-18-02; Ord. No. 2001/05, § 1, 5-3-05; Ord. No. 2052/10, § 1, 6-15-2010; Ord. No. 2090/14, § 1 ,6/17/2014; Ord. No. 3007/16, § 1, 5/24/2016; ; Ord. No. 3021/18, § 1, 6/19/2018)

Editor's note: Section 12-24, relative to charges imposed on outside contractors for use of city incinerator was repealed by § 2 of Ord. No. 1548/84, enacted May 29, 1984. Said section derived from Code 1957, § 2-414.12; Ord. No. 460-M, § 1, Oct. 6, 1959. Further, § 2 of Ord. No. 1548/84 enacted a new § 12-24 as set out above.

Sec. 12-25. Supervision of collection and disposal operations.

(a) All refuse accumulated in the city shall be collected, conveyed and disposed of under the supervision of the superintendent of operations, or next in charge, who shall have the authority to make regulations concerning the days of collection, type and location of waste containers, and such other matters pertaining to the collection, conveyance and disposal as shall be found necessary, and to change and modify the same, after notice as required by law, provided that such regulations are not contrary to the provisions hereunder.

(b) The superintendent of operations, or next in charge, may provide for the disposal of refuse collected in a sanitary district, village or town at a site owned and maintained by the City of Long Beach for the disposal of refuse, and the superintendent of operations, or next in charge, shall have the authority to make regulations with respect thereto.

(c) The disposal of the refuse shall be by incineration or other means consistent with accepted practices as prescribed by the superintendent of operations, or next in charge, or any other governmental agency having authority to control or regulate such facilities.

(d) Regulations as to hours of operation at the incineration site, the outside pickup zones, the type and volume of materials considered to be acceptable or any other regulations concerning the control of refuse shall be established, modified and revised by the superintendent of operations, or next in charge, from time to time, as operational conditions may require.

(e) The superintendent of operations, or next in charge, may reject any and all refuse brought for disposal.

(Code 1957, § 2-414.12(C)(6); Ord. No. 1141/72, § 1, 8-1-72)

Sec. 12-26. Private incineration or burning of solid waste prohibited.

(a) *Purpose.* The purpose of this section is to reduce to a minimum the dissemination of smoke, gas, dust, odor or any other atmospheric pollutant caused by private incineration of garbage and solid wastes within the City of Long Beach to ensure and maintain a reasonable degree of purity of the air resources therein and maintain and improve the natural and environmental resources for the protection of our present and future citizens.

(b) Commencing six (6) months after the effective date of this section, no person shall use, or permit the use of, or operation of, refuse burning equipment or incinerators within the City of Long Beach.

(c) Any person who shall violate the provisions of this section shall be guilty of a violation punishable for each violation by a fine not exceeding two hundred fifty dollars ($250.00), or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment. Each day such violation continues shall constitute a separate violation.

(Ord. No. 1257/74, § 1, 11-6-74)

Sec. 12-27. Bulk collections.

(a) No person shall place any bulk items at the curb for collection at any time other than as prescribed pursuant to section 12-25 of this chapter.

(b) All bulk items to be collected shall be placed at the curb for collection between the hours of 9:00 p.m. on the evening prior to the specified appointment date described in subdivision (a) herein and 7:00 a.m. on the said specified appointment date and at no other time or times.

(c) For the purposes of this section, "bulk items for collection" shall be defined as any large items being discarded that cannot be contained in the receptacles required by subsection 12-18(a) of this chapter and shall include but not be limited to, such items as major kitchen appliances, furniture, mattresses, lumber and other sizable objects.

(Ord. No. 1427/80, § 1, 8-5-80; Ord. No. 1488/82, § 1, 11-3-82)

Secs. 12-28, 12-29. Reserved.

DIVISION 2. DEPARTMENT OF SANITATION

Sec. 12-30. Created.

There shall be a department of sanitation under the supervision and direction of a superintendent of sanitation.

(Code 1957, § 2-414.12; Ord. No. 1658/88, § 3, 4-5-88)

Sec. 12-31. Superintendent of sanitation.

A superintendent of sanitation shall be appointed by the city manager. The compensation of the superintendent of sanitation shall be fixed by the council.

(Code 1957, § 2-414.12)

ARTICLE III. RECYCLING

Sec. 12-32. Legislative intent.

In order to reduce the economic and environmental costs associated with the disposal of solid waste and further encourage the reuse of recyclable materials, the City of Long Beach hereby establishes a comprehensive recycling program which will be mandatory for all residential, commercial, industrial and institutional entities within the city limits. The goal of this program is to remove those recyclable materials that are deemed to be economically marketable. By doing so, the city can effectively promote the reuse of valuable materials, preserve natural resources and decrease potential contaminants from entering the environment. The implementation of said comprehensive recycling program will result in an immediate decrease in the amount of disposable solid waste and correspondingly reduce the costs expended on such disposal, thus providing relief to taxpayers within the City of Long Beach.

The enactment of this legislation will permit the city to conform with applicable provisions of the New York State Solid Waste Management Act of 1988, which requires that local municipalities adopt laws which provide for regulating and enforcing the separation of solid waste into economically marketable, recyclable and/or reusable components.

In addition, this section of the Municipal Code of the City of Long Beach shall serve as the city's endorsement and promotion of the use of goods and products manufactured from or derived from recyclable materials, to further encourage and facilitate recycling efforts.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-33. Definitions.

As used in this article, the following definitions shall apply:

(a) *Glass:* All clear (flint), amber, brown and green glass bottles and jars rinsed clean of food, beverage or other residue with lids or caps removed and discarded. Mirrors, crystal, laminants, ceramics, porcelains, windows and plate glass are excluded from the program.

(b) *Lead-Acid Batteries:* Lead-acid batteries utilized in motorized vehicles shall be considered a recyclable material but will not be part of the city's curbside collection program and will be deemed illegal for disposal in regular trash collections. All such batteries must be disposed of at a designated battery recycling location or returned to a retail store that sells lead-acid batteries. New York State law requires that such establishments accept such batteries without charge.

(c) *Metal:*

(1) *Cans:* Containers comprised of aluminum, tin, ferrous or bi-metal components which contained only food and/or beverage substances, and are rinsed clean of food residue.

(2) *Scrap/bulk:* All ferrous and nonferrous metals, including steel, aluminum and composite cans, containers, scrap metal, wire, piping, fencing, tubing, sheet metal, etc. Such materials must be free of chemical contamination. Boilers, auto/boat batteries, oil/gas tanks or pipe lengths that exceed four (4) feet in length will be excluded from this program.

(d) *Motor Oil:* Motor oil shall be considered a recyclable material but will not be part of the city's curbside collection program. Waste motor oil will be disposed of by residents and occupants of the City of Long Beach at service stations and/or those retailers of motor oil, required to accept such materials, under state law.

(e) *Paper Products:*

(1) *Corrugated paper:* Corrugated cardboard containers, boxes and packaging which are empty and free of contaminants such as oils, greases, adhesives, metals, plastics, food wastes, packaging materials or other refuse. This term excludes residential quantities.

(2) *Newspaper:* Newsprint and all newspaper and newspaper enclosures such as advertisement, supplements and comics; as well as magazines, telephone books and brown paper bags that are dry and free of contaminants such as dirt, adhesives, oils and food waste. Newspaper recyclables do not include miscellaneous stationery products, letters, envelopes, junk mail, blueprint paper, office paper, computer paper, books or paper products other than those delineated above.

(3) *Non-newspaper recycleable products:* Shall include office paper, junk mail and miscellaneous mixed paper.

(f) *Plastics:* Containers composed of only polyethylene terephthalate (PET) and high-density polyethylene (HDPE) plastics, used for food, beverage, detergent bleach and hair care substances. All containers must be empty, rinsed of residues and contaminants and free of lids or caps. Under the resin-coding system established by the Society of Plastics Industries, PET and HDPE plastic products are assigned the code numbers of "1" and "2" respectively.

(g) *Recyclable Materials* or *Recyclables:* Any discarded materials designated by this article, and/or by subsequent resolution of the City Council of Long Beach pursuant to this article which can be reclaimed economically by source separation for the purpose of recycling, reduction and/or reuse.

(h) *Source Separation (or) Curbside Collection of Recyclables:* The separation of designated recyclables from the solid waste stream by the generator at the point of generation. The recyclables shall be handled as defined within this article, and be placed at curbside for collection on days assigned by the city.

(Ord. No. 1787/92, § 1, 9-1-92; Ord. No. 1875/97, § 1, 3-18-97)

Sec. 12-34. Curbside collection established.

(a) The City of Long Beach as part of its comprehensive recycling program has established a curbside collection plan for recyclables which shall encompass all residential, commercial, industrial and institutional entities within the jurisdictional limits of the city. Excluded from the mandatory provisions of this program will be all residents who can demonstrate physical disability.

(b) All residential, commercial, industrial and institutional entities, unless excluded as per subsection (a), shall source separate from the solid waste stream, those recyclables designated by the City Council of Long Beach as being economically marketable, and place them at curbside in a manner as prescribed in section 12-35 of this article, on the day(s) specified for collection by the city.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-35. Preparation of recyclable materials for curbside collection.

(a) Upon the effective date of this article [September 1, 1992], a mandatory curbside program is established for the separate collection of components of the solid waste stream designated by the City Council of Long Beach as being recyclable. The recyclable items for collection, delineated herein, may by city council resolution be expanded or shortened depending upon the current financial marketability of each material.

(b) It shall be the responsibility of each resident and/or occupant within the jurisdiction of the City of Long Beach to ensure that all recyclable materials are properly separated from other discarded materials, are cleaned of contaminants, and are otherwise prepared for collection in accordance with the procedures detailed in this section. All recyclables are to be placed in designated recyclable containers. When the amount of recyclable materials exceeds the capacity of the designated container(s), excess materials shall be placed securely in separate containers alongside designated container(s) at curbside.

(c) Recyclable materials shall be placed at curbside consistent with the recycling schedule established by the City Council of Long Beach.

(d) The city will only collect recyclable materials at curbside that are prepared for pickup consistent within the requirements specified herein. In all cases recyclables must be rinsed clean of all food residue or chemical contamination. Each container, bag, bundle and/or receptacle that is used for the curbside storage of recyclables shall not exceed thirty-five (35) pounds in total weight when filled.

(e) Newspaper recyclables may be placed in brown paper bags or tied with twine in bundles not to exceed thirty-five (35) pounds in weight nor one (1) foot in thickness. Such bundles shall be placed within or on top of the designated recycling containers or adjacent to the container. Papers are not to be secured with wire or plastic bindings and/or placed in plastic trash bags.

(f) Corrugated boxes, cardboard, cardboard cartons, pasteboard or similar paper materials are to be broken down and tied securely with twine. Wire or plastic binding should not be used. All bundles should be not larger than thirty-five (35) pounds in weight or four (4) feet in length. The residential community will not be required to separate corrugated materials from their solid waste stream. This provision applies to all commercial, industrial and institutional entities within the jurisdiction of the City of Long Beach.

(g) Those plastic bottles and containers deemed as being recyclable shall be placed within designated recycling container(s) and shall be devoid of lids or caps.

(h) All clear, amber, brown and green glass bottles and jars shall be placed within

the designated recycling container(s) and shall be devoid of caps.

(i) Metal containers comprised of aluminum, tin, ferrous or bi-metal components shall be placed within the designated recycling container.

(j) Scrap (bulk) metal shall be placed at curbside on days scheduled. The city will accept no more than four (4) items per location per pickup day. All metal pipes put out for recycling must be no more than four (4) feet in length.

(k) In the event that the City of Long Beach determines that additional or revised measures and/or preparation are necessary in order to properly market recyclable materials, the city reserves the power to require city residents and occupants to undertake such actions. Such changes would be subject to reasonable advance notice by the city.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-36. Containers designated for recyclable materials.

(a) *Residential structures; One- and Two-Family Structures:*

(1) All residents or occupants of one- and two-family structures within the City of Long Beach shall be required to utilize red, five-gallon plastic containers embossed with the recycling logo, for the placement of recyclable materials for curbside collection. These containers must be kept in a clean condition at all times and should not be utilized for any purpose other than as delineated within this article.

(2) Residents or occupants shall affix their respective street addresses to any recycling container, in a manner that is legible and permanent.

(3) In the event that such containers are lost, damaged, stolen or additional receptacles are needed, containers can be purchased for a fee of five dollars ($5.00) per unit from the department of public works. The containers will be delivered to the purchaser by the city upon receipt of payment.

(4) Physically disabled residents of the City of Long Beach will be excluded from the mandatory provisions of this article.

(b) *Multifamily Residential Complexes:*

(1) For purposes of this article, all single properties or contiguous properties under common ownership, control or management which possess three (3) or more residential units shall be considered multifamily residences.

(2) Where the use of individual recyclable containers is practicable, the curbside collection of recyclable materials should proceed consistent with section 12-36(a).

(3) Where the use of individual recyclable containers is not feasible, multifamily residential complexes shall establish private collection programs, capable of source separating, collecting and placing those designated recyclable materials at curbside, in a manner prescribed in this article, for pickup by the city.

The owner, manager and/or superintendent of each multifamily residential complex shall provide and maintain, in a neat and sanitary condition, recycling collection areas to receive and prepare designated recyclables generated within the complex.

(4) Where recyclable materials are to be placed at curbside adjacent to non-recyclable refuse, the recyclables shall be contained or packaged in a manner that is easily identifiable by city sanitation forces. To facilitate the identification of recyclables at curbside, the city has designated that "clear" plastic trash bags only shall be utilized for these materials. Where the use of such bags is not feasible, recyclables shall be placed in bins or receptacles labeled with a "LONG BEACH RECYCLABLES" sticker. Stickers can be obtained from the city at no cost.

(5) Physically disabled residents of the City of Long Beach will be excluded from the mandatory provisions of this article.

(c) *Commercial, Industrial and Institutional Establishments:*

(1) All commercial, industrial and institutional establishments within the jurisdiction of the City of Long Beach shall be subject to the source separation requirements designated in this article. As of the effective date of this article [September 1, 1992], such establishment must remove designated recyclable materials from the solid waste stream and prepare them for curbside collection by the city. The arrangements for the internal handling of recyclables shall be the owner, manager and/or operator of the establishment or his contractor and must include all materials generated at that location. All recyclable materials must be prepared consistent with the requirements delineated in this article.

(2) Where recyclable materials are to be placed at curbside adjacent to non-recyclable refuse, the recyclables shall be contained or packaged in a manner that is easily identifiable by city sanitation forces. To facilitate the identification of recyclables at curbside, the city has designated that "clear" plastic trash bags only shall be utilized for these materials. Where the use of such bags is not feasible, recyclables shall be placed in bins or receptacles labeled with a "LONG BEACH RECYCLABLES" sticker. Stickers can be obtained from the city at no cost.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-37. Collection of recyclable materials.

Collection days for recyclables will be established by the City Council of Long Beach. The city reserves the right to alter schedules; however, ample prior notification of affected parties will be made when such changes are proposed.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-38. Unlawful and nuisance activities.

(a) The following acts shall be deemed as violations to the City Code of Ordinance and shall be subject to the enforcement provisions specified within this article. It

shall be unlawful for:

(1) Any person to collect, remove or dispose of solid waste generated within the jurisdiction of the City of Long Beach which consists of recyclable materials combined with other forms of solid waste as per the effective date of this article [September 1, 1992].

(2) Any person, other than those persons lawfully authorized, to collect any designated recyclable or scavenge or remove any articles from any recyclable container which has been placed at the curbside for collection or at drop-off point.

Each such collection in violation hereof, from one (1) or more property locations, shall constitute a separate and distinct offense.

(3) Any person, having custody or control of residential, commercial, industrial and/or institutional premises within the City of Long Beach shall permit or cause any garbage, refuse, rubbish as well as recyclable materials, under their jurisdiction, to become a hazard or potential hazard to health and/or safety; or impede pedestrian or vehicular travel; or become a nuisance of any sort.

(4) Any person to place or cause to be placed any non-recyclable material in or near a designated recycling container or drop-off point.

(5) Any person to place recyclables at curbside not more than one (1) hour before sunset on the day prior to the regularly scheduled collection; or keep emptied receptacles or containers at curbside more than twelve (12) hours after collection.

(6) Any person to hinder, obstruct, prevent or otherwise interfere with City of Long Beach employees or any authorized persons in the performance of their duties under this article and/or in the enforcement of this article.

(7) Any person to violate or to cause to assist in the published violation of any provision of this article or any rules and regulations promulgated by the City Council of Long Beach concerning recycling.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-39. Enforcement: Promulgation of additional rules and regulations.

The City Council of Long Beach authorizes the city manager and duly appointed representative(s) to enforce the mandatory provisions of this article and to administer the recycling program elements established herein. The same individuals may adopt and promulgate, amend and repeal rules and regulations implementing this article in order to carry out and enforce the intent and purposes thereof.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-40. Discontinuing solid waste collection.

The City of Long Beach or any other person collecting solid waste generated within this city reserves the right to refuse the collection of solid waste, rubbish or refuse

from any person who has clearly failed to source separate recyclables designated under an applicable section of this article.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-41. Private solid waste collection contracts.

(a) Nothing contained in this article shall be construed to interfere with or in any way modify the provisions of any existing contract in force in the city on the effective date of this article [September 1, 1992].

(b) No renewal of any existing contract upon the expiration of the original term thereof and no new contract for the collection, transportation, processing or purchase of solid waste or recyclables shall be entered into after the effective date of this article unless renewal of such contract shall conform to the requirements of this article.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-42. Penalties for Offense.

(a) In the event that an owner or occupant of a dwelling within the City of Long Beach fails to separate and prepare recyclable materials for collection in accordance with the provisions set forth in this article after being given reasonable notice of these requirements; collection of solid waste, refuse and/or rubble from these premises may be suspended at the discretion of the city manager or an authorized representative. Such suspension will be in effect until such time as the offender can demonstrate compliance. Concurrently, the offending owner or occupant is subject to fines and/or imprisonment as denoted in subsection (b) below.

(b) Any person committing an offense against the provisions set forth in this article shall be guilty of a violation. Each occurrence shall constitute a separate violation. Such an offense shall be punishable by a fine and/or imprisonment in accordance with the following schedule:

(1) For a first conviction, by a fine not to exceed one hundred dollars ($100.00) per violation.

(2) For a second conviction within one (1) year of the initial infraction, by a fine not to exceed two hundred fifty dollars ($250.00) per violation.

(3) For a third conviction within one (1) year of the initial infraction, by a fine not less than one thousand dollars ($1,000.00) per violation.

(4) For a fourth conviction within one (1) year of the initial infraction, by a fine not less than one thousand dollars ($1,000.00) and not more than twenty-five hundred dollars ($2,500.00) per violation; at the discretion of a court of competent jurisdiction, a sentence of imprisonment for a term not to exceed fifteen (15) days or a comparable time served in community service related to the purposes of this article.

(5) All fines and/or imprisonment for subsequent violations will be at the discretion of the courts, but will not be less than the sentence as

prescribed under subsection (4).

(c) Each continuing day of violation of this article shall constitute a separate offense.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-43. Miscellaneous.

(a) *Construal:* The terms and provisionals of this article are to be liberally construed so as best to achieve and effectuate the goals and purposes hereof.

(b) *Severability:* The provisions of this article are severable. If any provision of this article or its application to any person or circumstance is held invalid, said invalidity shall not affect any other provision or application of this article which can be given effect without the invalid provision or application of the article.

(c) *Recyclable Materials (Inclusion and Deletion):* The City Council of Long Beach reserves the right to periodically add or delete recyclable materials for curbside collection.

(d) *Exclusions:*

(1) The City Council of Long Beach has excluded physically disabled residents from the mandatory provisions of this article.

(2) Where hardship can be demonstrated, establishments within the city may be relieved of mandatory compliance of the provisions of this article.

(Ord. No. 1787/92, § 1, 9-1-92)

Sec. 12-44. Effective date.

The effective date for mandatory recycling shall be September 1, 1992.

(Ord. No. 1787/92, § 1, 9-1-92)

Chapter 13 HOUSING AND PROPERTY REHABILITATION AND CONSERVATION CODE*

***Charter references:** Maximum rents to be charged by hotels and other lodging houses, § 262; department of buildings and property conservation, § 292 et seq.

Cross references: Housing and property rehabilitation and conservation commission, § 2-230 et seq.; building code, Ch. 7; electrical code, Ch. 10; fire prevention and protection, Ch. 11; unlawful practices involving sales of real estate, § 17-8; planning and zoning generally, Ch. 20; plumbing code, Ch. 21.

Art. I. In General, §§ 13-1--13-20
Art. II. Administration and Enforcement, §§ 13-21--13-60
Art. III. Minimum Standards, §§ 13-61--13-78.1
Art. IV. Swimming Pools Law, §§ 13-79--13-94
Art. V. Smoke Detector Law, §§ 13-95--13-99
Art. VI. Satellite-Dish Television Antennas, §§ 13-100--13-119
Art. VII. Dune Protection, §§ 13-120--13-125
Art. VIII. Telecommunication Towers, Antennas and Facilities, §§ 13-126--13-144

ARTICLE I. IN GENERAL

Sec. 13-1. Definitions.

(a) In addition to the definitions set forth in the state building construction code, the following terms shall, for the purposes of this chapter, have the meanings ascribed to them as follows:

Accessory building: A subordinate building or structure on the same lot as the main building, occupied by or devoted exclusively to an accessory use.

Accessory use: A use, occupancy or tenancy customarily incidental to the principal use or occupancy of a building.

Addition: Extension or increase in area, height or equipment of a building.

Alteration: As applied to a building or structure, shall mean any change, rearrangement, or enlargement in the structural parts or exit facilities of a building or structure, whether by extending said building or structure on any side or by increasing said building or structure in height, or the moving of said building or structure from one location or position to another location or position.

Appendage: Equipment and/or stairway bulkhead not exceeding twenty (20) feet in height.

Apartment or suite: Shall mean one (1) or more rooms occupied or intended to be occupied as the home or residence of an individual, family or household.

Approved: Shall mean constructed, installed and maintained in accordance with the provisions of this chapter and other pertinent provisions of this Code or other ordinances or regulations of the city.

Approved material and construction: Shall mean approved by the commissioner of buildings under the provisions of this chapter or the building code of the city (or the New York State Uniform Fire Prevention and Building Code), or by any other authority authorized by law to give approval in the matter in question.

Attic: Space between the top of uppermost floor construction and underside of roof.

Basement: That space of a building which is at least one foot below grade, which has more than one-half of its height, measured from floor to ceiling, either above adjoining ground or grade level, whichever is higher.

Bathroom: An enclosed space containing a minimum of one (1) water closet, one (1) lavatory, and either one (1) bathtub or one (1) shower. It may also contain additional plumbing fixtures serving similar purposes. See definition of "toilet room."

Blight: A condition that is of substandard quality or appearance.

Building: A structure wholly or partially enclosed within exterior or party walls and a roof, affording shelter to persons, animals or property.

Building area: The aggregate of the maximum horizontal cross-section area of the buildings on a lot, excluding cornices, caves, gutters, bay windows or chimneys projecting not more than twenty-four (24) inches, steps, one-story open porches, balconies and terraces. It shall not include accessory buildings less than fifteen (15) feet in height.

Cellar: That space of a building which is partly or entirely below grade, which has more than one-half of its height, measured from the floor to the ceiling, below either adjoining ground or grade level, whichever is higher.

Code enforcement officer: Shall mean the commissioner or his duly authorized representative.

Commissioner of buildings or commissioner: Shall mean the commissioner of buildings and property conservation of the city or his legally designated representative.

Court: Shall mean a space, other than a yard, on the same lot as building or structure, which is open on at least one (1) side of said space and is open to the sky.

Court, inner: Shall mean a court not extending to a street or yard.

Court, outer: Shall mean a court extending to a street or yard.

Department: Shall mean the department of buildings and property conservation of the city.

Dormitory/student residence: Shall mean a building or part of a building designed, used or intended to be used as and for the residence of full-time students of a school duly licensed by the Department of Education and the State of New York. Every dormitory/student residence must be located either in the same building, or on the same lot, or on a lot contiguous to the school which the residents of the dormitory/student residence attend.

Dwelling: A building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, including one-family, two-family and multiple-family dwellings.

Dwelling, one-family: A building containing not more than one dwelling unit occupied exclusively for residential purposes.

Dwelling, two-family: A building containing two (2) dwelling units occupied exclusively for residential purposes.

Dwelling, multiple: A building containing three (3) or more dwelling units occupied exclusively for residential purposes.

Dwelling unit: A living unit containing one or more habitable rooms, with provisions for living, cooking, eating, sanitary and sleeping facilities arranged for the use of one family.

Equipment: Plumbing, heating, electrical, ventilating, air conditioning, refrigerating, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

Exterior property areas: Shall mean open spaces on the premises and vacant open space on adjacent premises.

Extermination: Shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing, or making inaccessible, materials that may serve as their food by any recognized and legal pest elimination method approved by the code enforcement officer.

Family: The term "family" shall mean one of the following:

(1) One person living alone; or

(2) Two (2) or more persons, all of whom are related to each other by blood, adoption or marriage, living together in a single dwelling unit; or

(3) Not more than two (2) persons not related to each other by blood, adoption or marriage, living and cooking together in a single dwelling unit; or

(4) A group home for a surrogate family consisting of foster parents and children, as described in Section 374-c of the New York State Social Services Law, or other similar functionally equivalent family, living and cooking together in a single dwelling unit.

Garbage: Shall mean all putrescible animal, vegetable or mineral wastes resulting from the handling, preparation, cooking and consumption of food.

Grade level: Center line or road adjacent to property.

Habitable room: Shall mean a room occupied by one (1) or more persons for living, eating or sleeping, and includes kitchens serving individual households or apartments, but does not include bathrooms, water closet compartments, laundries, serving and storage pantries, corridors, cellars and similar spaces that are not used frequently or during extended periods, nor does it include kitchenettes.

Height: The height of a wood frame building shall be measured from grade level to the highest point of the roof in the case of roofs inclining not more than one inch to each foot and in the case of other roofs to a level halfway between the top of the main plate and the highest ridge. In all other building classifications, the height will be measured from grade level to the highest point of the building. This measurement shall

not include appendages upon the roofs of such building.

Infestation: Shall mean the presence within or around a dwelling, dwelling unit, rooming house, rooming unit or premises, of insects, rodents, vermin or other pests.

Junked vehicle: Shall mean any vehicle, including a trailer, which is without a currently valid license plate or plates, and is in either a rusted, wrecked, discharged, dismantled, partly dismantled, inoperative or abandoned condition. A junked vehicle shall be classified as to its condition in one of the two (2) following categories:

(1) Restoration (Symbol "R"). The term restoration shall mean a junked vehicle that is in a condition whereby repairs to it could be made to place it in operating condition without undue expense.

(2) Wreck (Symbol "W"). The term "wreck" shall mean a junked vehicle in such condition that it is economically unsound to restore it to operating condition, taking into consideration the repairs to be made, the age of the vehicle and the market value of the vehicle if it were restored; or in such condition whereby the commissioner in his opinion determines that it warrants such classification.

The commissioner shall make the final determination as to the classification to be assigned to any particular vehicle.

Kitchen: Shall mean a space, sixty (60) square feet or more in floor area, with a minimum width of five (5) feet, used in cooking or preparation of food, and is deemed habitable space.

Kitchenette: Shall mean a space, less than sixty (60) square feet in floor area, used for cooking or the preparation of food, and is not deemed habitable space.

Lot: Any plot, tract or parcel of land occupied by one or more principal buildings and accessory buildings and uses, including such open spaces as are required by this chapter.

Lot, depth of: The average distance from the street line to the rear lot line, measured in the average general direction of the sidelines of the lot.

Lot, rear line: The lot line opposite the street line, or in the case of a corner lot, the lot line elected by the owner, provided that it be indicated on the plans filed with the building commissioner as provided hereafter.

Lot, width of: The distance between the side lot lines measured at the center of depth of the lot.

Mixed occupancy: Occupancy of a building in part for residential use and in part for commercial use.

Nonhabitable space: Shall mean a room within a dwelling such as bathrooms, water closet compartments, laundries, kitchenettes, serving and storage pantries, corridors, cellars and similar spaces that are not utilized frequently or for extended periods of time.

Occupant: Shall mean any person, including an owner or operator, over one (1) year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or room in a rooming house.

Operator or manager: Shall mean any person having charge, care, management or control of any dwelling or part thereof, in which dwelling units or rooming units are let.

Owner: Shall mean any person who, singly, jointly or severally with others, holds legal or equitable title to any dwelling, dwelling unit, rooming house or rooming unit. Owner shall include any agent, employee, officer or director thereof.

Parking space: An area of not less than one hundred eighty (180) square feet, net, having a width of not less than nine (9) feet and a length of not less than twenty (20) feet, net, to be used exclusively as a temporary storage space for one private motor vehicle. Truck loading and unloading space shall not be included in such area.

Party wall: A wall on an interior lot line used or adapted for joint service between two (2) buildings or structures.

Plumbing: Shall mean and include all of the following supplied facilities and equipment: Gas pipes; gas-burning equipment; water pipes; waste pipes; water closets; sinks; installed dishwashers; lavatories; bathtubs; shower baths; installed clothes washing machines; catch basins; drains; vents; and any other similar supplied fixtures, together with all connections to water, sewage or gas lines.

Potable water: Shall mean water which is approved for drinking, culinary and domestic purposes as set forth in the state sanitation code.

Premises: A lot, plot or parcel of land including the building or structures thereon.

Private garage: A building or part thereof accessory to a main building and providing for the storage of automobiles and which shall not be utilized for any occupation or business purposes.

Public space: Shall mean space within a residential building for public use, such as lobbies, lounges, reception, ball, meeting, lecture and recreation rooms, banquet and dining rooms and their kitchens and swimming pools.

Refuse: Shall mean all cardboard, plastic, metal or glass food containers, wastepaper, rags, sweepings, small pieces of wood, excelsior, rubber, leather and similar waste material that ordinarily accumulates around a home, business or industry.

Rehabilitation: Rehabilitation shall mean to repair and/or replace in whole or in part any building or structure at a cost in excess of fifty (50) percent of the market value of such building or structure immediately before work is commenced, exclusive of the value of the land and foundation.

Rooming house: Shall mean any dwelling, or part thereof, which contains one or more rooming units, in which space is let by the occupant or owner to three (3) or more persons not directly related to him, for residential purposes, but not for cooking or eating purposes.

Rooming unit: Shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living or sleeping, but not for cooking or eating purposes.

Rubbish: Shall mean all combustible and noncombustible waste, except garbage.

Sewage: Shall mean liquid waste containing animal or vegetable matter in suspension or solution, and which may include industrial wastes and liquids containing chemicals.

Story: The portion of a building which is between one floor level and the next higher floor level or the roof. A basement, where the finished floor immediately above such basement is less than seven (7) feet above grade, as defined in this section, shall not be deemed a story. Under no circumstances, shall an attic or a cellar be deemed to be a story.

Street line: The dividing line between a street and a lot.

Structure: Shall mean a combination of materials to form a construction that is safe and stable and includes, among other things, buildings, porches, balconies, terraces, decks, stadiums, tents, reviewing stands, platforms, stagings, radio and television towers and antennas, satellite dishes, sheds, storage bins, walls, fences and display signs; the term "structure" shall be construed as if followed by the words "or part thereof."

Studio unit: Shall mean a living unit containing one habitable room with provisions for living, cooking, eating and sleeping facilities arranged for the use of one family.

Toilet room: An enclosed space containing a minimum of one (1) water closet and one (1) lavatory; it may also contain additional plumbing fixtures serving similar purposes. See the definition of "bathroom."

Unoccupied hazard: Shall mean any building or structure or part thereof situated within one (1) or more residential zoning districts, or within one thousand (1,000) feet of any residential zoning work district, which remains unoccupied for a period of more than six (6) months with its doors, windows or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than six (6) months.

Ventilation: Shall mean the supply and removal of air to and from a space by natural or mechanical means.

Ventilation, mechanical: Shall mean ventilation by power-driven devices.

Ventilation, natural: Shall mean ventilation by an opening to outer air through windows, skylights, doors, louvers or stacks, with or without wind-driven devices.

Water closet: Shall mean a toilet, with a bowl and trap, which is connected to the city water and sewer system or to other approved water supply and sewer system.

Yard: An open space on the same lot which contains a building and located between the building line and the lot line which the particular building line faces.

Yard, front: An open space extending from the front building line to the front lot line, unoccupied and unobstructed from the ground upward, excluding cornices, eaves, gutters, bay windows and chimneys projecting not more than eighteen (18) inches.

Yard, rear: An open space extending from the rear building line to the rear lot line, unoccupied and unobstructed from the ground upward, excluding cornices, eaves, gutters, bay windows and chimneys projecting not more than eighteen (18) inches.

Yard, side: An open space extending from the front yard to the rear yard and located between the building line and the side lot line, which space shall be unoccupied and unobstructed from the ground upwards, excluding cornices, eaves, gutters, bay windows and chimneys projecting not more than eighteen (18) inches, and except as

hereinafter specified.

(b) Whenever the words "building," "dwelling," "dwelling unit," "rooming house" and "premises" are used in this chapter they shall be construed as though they were followed by the words "or any part thereof."

(Code 1957, § 10-1101; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1060/71, § 1, 7-6-71; Ord. No. 1084/71, § 1, 10-5-71; Ord. No. 1256/74, § 1, 11-6-74; Ord. No. 1436/80, § 1, 11-5-80; Ord. No. 1443/80, § 1, 12-16-80; Ord. No. 1664/88, § 1, 5-3-88; Ord. No. 1668/88, § 1, 6-21-88; Ord. No. 1701/89, § 1, 6-20-89; Ord. No. 1752/91, § 1, 4-16-91; Ord. No. 1757/91, § 1, 6-4-91; Ord. No. 3052/21, 07-06-2021)

Sec. 13-2. Premises subject to this chapter.

(a) This chapter shall apply to the following premises within the city:

(1) Lots, plots or parcels of land which are vacant or upon which buildings used for dwellings, mixed occupancy, commercial, industrial or storage uses, whether occupied or vacant, are located.

(2) Residential buildings, including private dwellings and multiple dwellings, unless specifically excluded, irrespective of when such buildings may have been constructed, altered or repaired.

(3) Buildings of mixed occupancy, occupied in whole or in part.

(4) Commercial, industrial and storage buildings.

(5) Vacant, residential, mixed-occupancy, commercial, industrial and storage buildings.

(6) Residential, mixed-occupancy, commercial, industrial and storage buildings which are under construction or demolition, including buildings not completed, to the extent that a nuisance or practice exists, or is being carried out, which is a disturbance to the public health, safety or welfare.

(7) Accessory structures, accessory to dwellings, commercial, industrial or vacant buildings.

(b) This chapter shall not apply to institutional buildings and public buildings and their accompanying yards; it shall not apply to public streets or rights-of-way; it shall also not apply to buildings which contain offices as their principal occupancy.

(Code 1957, § 10-1102; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-3. Conformity with this chapter required.

No person shall occupy as owner-occupant, lessee or agent of the owner, or let, rent or sell, nor shall any realtor or real estate agent willfully, knowingly or intentionally let, rent or sell to another for occupancy, any dwelling, rooming house, dwelling unit or rooming unit for the purpose of living, sleeping, cooking or eating therein which does not comply with the requirements of this chapter.

(Code 1957, § 10-1102; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-4. Conformance with this chapter required.

No person shall, as owner, occupant, lessor or agent of the owner or lessor, let, rent or sell to another for occupancy, any dwelling, rooming house, dwelling unit or rooming unit for the purpose of living, sleeping, cooking or eating therein which does not comply with the requirements of this chapter.

(Code 1957, § 10-1102; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 6-9-70; Ord. No. 1041/71, § 1, 5-4-71)

Sec. 13-4.1. Compliance with zoning regulations of property let, rented or sold.

No person, including but not limited to real estate broker or real estate agent, shall willfully, knowingly or intentionally participate in the letting, renting or selling of any improved property for a use which does not comply with the use requirements of the building zone ordinance of the City of Long Beach.

(Code 1957, § 10-1102.1; Ord. No. 1150/72, § 1, 11-8-72)

Cross references: Zoning ordinance, App. A.

Sec. 13-4.2. Obligations of real estate brokers and agents.

It shall be the duty and obligation of every real estate broker and real estate agent to investigate and ascertain the use restrictions and requirements of the zoning law and ordinances of the City of Long Beach before soliciting, advertising or otherwise participating in any attempt to rent, or sell, or to offer for rental or sale, any improved property or portion thereof. Failure to make such adequate investigation and determination shall constitute a violation of this chapter by such real estate broker or real estate agent.

(Ord. No. 1566/85, § 1, 6-4-85)

Sec. 13-5. Conformity with other laws.

Installations, alterations and repairs to buildings and materials, assemblies and equipment utilized in connection therewith shall be in conformity with the applicable provisions of this chapter, the building code, the plumbing code, the fire prevention code and the zoning ordinance of the city, and with the Multiple Residence Law of the state, where applicable, and with any other applicable state or local law, provision of this Code, ordinance or regulation issued by authority thereof and enforced by the bureau.

(Code 1957, § 10-1103; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-6. The provisions of this chapter declared to be cumulative.

The provisions of this chapter shall not be deemed to modify or otherwise affect

or be in substitution for any provision of any law or other provisions of this Code, but shall be cumulative thereto.

(Code 1957, § 10-1129.9; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-7. Construction of this chapter with other laws.

The provisions of this chapter shall supplement local laws, other provisions of this Code and other city ordinances, codes or regulations. Where a provision of this chapter is found to be in conflict with any provision of a state law, local law, provision of this Code, ordinance, code or regulation, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail.

(Code 1957, § 10-1102; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1041/71, § 1, 5-4-71)

Sec. 13-7.1. Multiple dwelling law.

(a) The provisions of Articles 1, 2, 3, 4, 5, 10 and 11 of the multiple dwelling law of the State of New York shall be deemed incorporated into this Code of Ordinances by reference herein.

(b) Anything to the contrary notwithstanding, should there be a conflict between the provisions of this section and any other section in this chapter then the provisions of this section shall prevail.

(Ord. No. 1110/72, §§ 1, 2, 1-11-72; Ord. No. 1735/90, § 1, 9-18-90)

Editor's note: Ord. No. 1110/72 amended the Municipal Code (1957) to add the provisions of this section to Ch. 11 as Art. 9, which chapter, however, entitled "Tenement House Law," was not carried forward into this Code, and presumably is no longer in force.

Secs. 13-7.2, 13-7.3. Reserved.

Editor's note: Ord. No. 1972/03, § 1, adopted Sept. 2, 2003, repealed sections 13-7.2 and 13-7.3 in their entirety and replaced them with a new section 13-7.4. Former sections 13-7.2 and 13-7.3 pertained to rent stabilization for multiple dwellings of more than one hundred units, and rent stabilization for multiple dwellings of sixty to ninety-nine units, respectively, and derived from Res. No. 166/74, §§ 1--4, adopted Aug. 27, 1974; Res. No. 92/79, §§ 1--4, adopted April 24, 1979.

Sec. 13-7.4. Rent stabilization for multiple dwellings of more than sixty units.

(a) *Existence of emergency.* The city council hereby declares the continued existence of an emergency pursuant to the Emergency Tenant Protection Act of 1974, as amended, as to all multiple dwellings located within the city, that contain housing accommodations for sixty (60) or more dwelling units, and in this connection specifically finds that the vacancy rate for such multiple dwellings is less than five (5) percent.

(b) *Transmittal to state authorities.* The city council directs the city manager to transmit this section to the state division of housing and community renewal, and specifically authorizes the city manager to continue making such payments as is required by the commissioner of housing and community renewal pursuant to the Emergency Tenant Protection Act of 1974, as amended.

(c) *Charge of administrative costs.* Pursuant to section 8 of the Emergency Tenant Protection Act of 1974, as amended, the city council directs the city comptroller to continue charging the annual cost of administration of such rent regulation to the owners of every building containing housing accommodations subject to such rent control in proportion to the number of dwelling units contained in such buildings.

(d) *Survey and study.* The city council directs the city manager to conduct a survey and study in the city every three (3) years beginning in July 2006 under the supervision of the administration of the city to determine whether the vacancy rate does or does not exceed five (5) percent in multiple dwellings of sixty (60) or more units and determine whether or not the emergency continues.

(Ord. No. 1972/03, § 1, 9-2-03)

Sec. 13-8. Malicious destruction of property.

It shall be unlawful for any person to willfully and maliciously injure, destroy, mar or deface the personal property, house, apartment, dwelling, building, fence, tree or shrub of another.

(Code 1957, § 10-1128(A); Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-9. Premises to be left in a clean condition.

Each person vacating or removing from any dwelling, apartment house or other building shall, within forty-eight (48) hours after vacating or removing from the premises, move or cause to be removed from the dwelling, apartment house or other building, including the grounds and appurtenances thereto, all ashes, garbage, rubbish, dirt, bottles, glass, paper and refuse of every kind and nature.

(Code 1957, § 10-1128(B); Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-10. Penalties for violations.

(a) Any person who shall violate any provision of this chapter, or commit any nuisance, shall be guilty of a violation punishable for each violation by a fine not exceeding two hundred fifty dollars ($250.00), or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment. Each day such violation continues shall constitute a separate violation.

(b) The term "person" as used in subsection (a) shall include the owner, occupant, mortgagee or vendee in possession, operator, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of the premises or part thereof.

(Code 1957, §§ 10-1121, 10-1128.1, 10-1129.3; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1041/71, § 4, 5-4-71; Ord. No. 1060/71, § 2, 7-6-71; Ord. No. 1133/72, § 1, 7-11-72; Ord. No. 1142/72, § 1, 8-1-72; Ord. No. 1174/73, §§ 1, 2, 4, 7-10-73; Ord. No. 3052/21, 07-06-2021)

Sec. 13-11. Rental clause for one-family and two-family dwellings.

In every written lease or rental agreement for one-family or two-family dwelling units the following clause shall be attached and made a part of said lease or rental agreement. All parties to the lease or rental agreement including the real estate broker and/or agent, if any, must acknowledge and sign said clause. The owner and/or lessor of the premises shall have the duty to include such clause.

"All parties hereby acknowledge that they are aware of and are in compliance with the following laws that exist within the City of Long Beach:

A dwelling is a building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons including one-family and two-family dwellings. A dwelling unit is a living unit containing one or more habitable rooms, with provisions for living, cooking, eating, sanitary and sleeping facilities arranged for the use of one family.

The term "family" shall mean one of the following:

(1) One person living alone; or

(2) Two (2) or more persons, all of whom are related to each other by blood, adoption or marriage, living together in a single dwelling unit; or

(3) Not more than two (2) persons not related to each other by blood, adoption or marriage, living and cooking together in a single dwelling unit.

It is prohibited to use for sleeping purposes any kitchen, nonhabitable space or public space. This includes bathrooms, water closet compartments, laundries, kitchenettes, serving and storage pantries, corridors, cellars, garages and similar spaces.

No person shall occupy as owner-occupant, lessee or agent of the owner, or let, rent or sell, nor shall any realtor or real estate agent willfully, knowingly or intentionally let, rent or sell to another for occupancy, any dwelling, rooming house, dwelling unit or rooming unit for the purpose of living, sleeping, cooking or eating therein which does not comply with the requirements of the law.

A violation of any of the provisions of the Zoning Law shall be punishable by a fine not exceeding one thousand dollars ($1,000.00), or by imprisonment not exceeding fifteen (15) days, or both. Each day that any such violation shall continue or exist shall constitute a separate offense.

A violation of any of the other provisions shall be punishable for each violation by a fine not exceeding two hundred fifty dollars ($250.00), or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment. Each day such violation continues shall constitute a separate violation."

(Ord. No. 1928/00, § 1, 2-15-00)

Secs. 13-12--13-20. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

***Editor's note:** Ord. No. 1605/86, § 1, adopted October 21, 1986, repealed Div. 2 and Div. 3, §§ 13-34--13-40 and §§ 13-45--13-50, in their entirety. Section 2 of the aforesaid ordinance repealed the title Div. 1, generally. Former Div. 2 and Div. 3 were concerned with the certificate of compliance and special accommodations, and derived from the Code of 1957 and the following legislation:

Ord. No.	Date	Ord. No.	Date
704	3-3-64	1087/71	10-5-71
716	6-2-64	11-63/73	3-7-73
973/70	6-9-70	1168/73	4-4-73
992/70	9-14-70	1258/74	11-6-74
1041/71	5-4-71	1429/80	9-16-80

Sec. 13-21. Registration of ownership of certain dwellings; designation of agent.

(a) Each owner of a two-family dwelling or multiple dwelling who does not have his domicile therein and, in the case of a corporation which does not have its principal office therein, shall file with the department, within the applicable period of time prescribed by subsection (b) of this section, a written registration statement containing the following information:

(1) A description of the premises, by street number or otherwise, in such manner as will enable the department to find the premises.

(2) The name, residence and business address of the owner, or if the owner is a corporation, the name and address of the corporation and the name, residence and business address of all officers thereof.

(3) The name, residence and business address of a natural person, twenty-one (21) years of age or over, who is customarily present at an office in the city for the purpose of transacting business, or who actually resides within the city, and who shall be designated by the owner as a managing agent in control of and responsible for the maintenance and operation of the dwelling in accordance with the provisions of this chapter. There shall be endorsed upon such statement a written consent to such designation signed by the managing agent. An owner, who is a natural person and who meets the requirements of this paragraph as to the location of the residence or place of transacting business of a managing agent, may designate himself as such managing agent. Nothing contained in this paragraph shall be construed as preventing a corporation which is an owner of a two-family dwelling or a multiple dwelling from designating as its managing agent with respect thereto, any officer of the corporation

who meets the requirements of this paragraph as to the location of the residence or place of transacting business of a managing agent. The designation of a managing agent shall not relieve any owner of any responsibility or obligation as to compliance with the provisions of this chapter and of the Multiple Dwelling Law.

(b) Each owner of a two-family dwelling or multiple dwelling who does not have his domicile therein and, in the case of a corporation, which does not have its principal office therein, which was in whole or in part occupied for living purposes on April 30, 1970, shall on or before March 15, 1971, file a registration statement in relation to the dwelling in conformity with the applicable requirements of subsection (a) of this section. In any case, where a two-family dwelling or multiple dwelling is constructed or occupied for living purposes on or after April 30, 1970, and in any case where any dwelling is connected to a two-family dwelling or multiple dwelling on or after such date, the owner thereof shall, prior to the issuance of a certificate of compliance with respect to the dwelling, file a registration statement with the building department in compliance with subsection (a) of this section.

(c) Each owner of a one-family dwelling which is occupied by a person or persons other than the owner or his immediate family or which is unoccupied for a continuous period in excess of six (6) months, and each owner of a two-family dwelling or multiple dwelling which is unoccupied by the owner or his immediate family for a continuous period in excess of three (3) months, whether or not such owner claims to have his domicile therein, shall file a registration statement with the building department in compliance with subsection (a) of this section.

(d) In addition to the filing requirements provided for in this section, the name and address of the owner or managing agent of a dwelling containing six (6) or more units shall be attached to the front street entrance of the dwelling in a manner prescribed by the department.

(Code 1957, § 10-1129.7; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1041/71, §§ 6, 7, 5-4-71; Ord. No. 1500/83, § 1, 4-19-83)

Sec. 13-22. Availability of remedies.

Notwithstanding the availability of other remedies for the enforcement of the provision contained in this property rehabilitation and conservation code, the plumbing code, fire prevention code and the zoning ordinances of the City of Long Beach, or in any other state or local law, ordinance or regulation enforced by the department, the remedies and procedures as set forth in this article are made available to enforce the provisions of the aforesaid enumerated codes, laws and regulations, and shall be deemed cumulative to other enforcement and remedies. It is hereby specifically provided that the procedures set forth in this article for enforcement of property maintenance requirements may be pursued simultaneously with the prosecution and enforcement of penalties for violations of such other codes, laws and regulations.

(Code 1957, § 10-1129.1; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1174/73, § 3, 7-10-73; Ord. No. 1559/85, § 1, 2-5-85)

Sec. 13-23. Commissioner to be enforcing officer; authority generally.

(a) Notwithstanding the powers of the fire chief, the fire marshal and other officers to enforce the provisions of the fire prevention code, the provisions of this article for the enforcement of this chapter, the building code, the plumbing code, the fire prevention code and the zoning ordinance of the city and of any other state or local law, or provision of this Code or other city ordinance or regulation enforced by the department shall be enforced by the commissioner.

(b) The commissioner, in enforcing the provisions of this chapter, the building code, the plumbing code, the fire prevention code and the zoning ordinance of the city, and of any other state or local law, or provisions of this Code or other city ordinance or regulation enforced by him pursuant to this chapter, shall have the power to enter, examine and inspect, or cause to be examined and inspected, and to investigate, or cause to be investigated, vacant lots, yards, areas and buildings in the city to determine which are in violation of any provision of this Code or other city ordinance or threaten the safety, health, comfort and general welfare of the inhabitants of the city.

(Code 1957, § 10-1129.2; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-24. Buildings in violation of this chapter and other laws declared to be a nuisance.

(a) All buildings, dwellings, dwelling units, studio units, multiple dwellings, rooming units, rooming houses, yards, courts, open areas and vacant lots which are in violation of this chapter are hereby declared to be nuisances and shall be abated by being corrected, made sanitary, repaired, vacated or demolished, in accordance with the orders of the commissioner.

(b) All nuisances established by this section are hereby declared to be unlawful.

(c) The term "nuisance" as used in this section shall be held to embrace whatever is dangerous to human life or detrimental to health or welfare and shall include, but shall not be limited to, the following:

(1) A public nuisance as known at common law, statutory law and in equity jurisprudence,

(2) Unoccupied hazard as defined in this chapter,

(3) A building, structure, one-family dwelling, two-family dwelling, multiple dwelling, rooming house, commercial building, storage building, or vacant areas or any combination thereof, that is in violation of either this chapter, the building code, the plumbing code, the fire prevention code and the zoning ordinance of the city, or in violation of any other state or local law, or any other provision of this Code or other city ordinance or regulation.

(Code 1957, §§ 10-1117, 10-1129.4; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1041/71, § 5, 5-4-71)

Sec. 13-25. Procedure for enforcement.

(a) *Notice to correct violation:* Whenever the building department shall seek to remove or cause the removal of a nuisance or violation of either the property rehabilitation and conservation code, and fire prevention code of the City of Long Beach, or of any other state or local law, ordinance or regulation enforced by the department by cleaning, repairing, vacating, demolishing or by taking such other corrective action deemed necessary, other than the institution of legal proceedings, it shall serve a notice or order in the manner prescribed by section 13-26 of this article, reciting the facts constituting such nuisance or violation, specifying in what respect the building or vacant area is a nuisance or violation of either the property rehabilitation and conservation code, building code and plumbing code of the City of Long Beach or of any other state or local law, ordinance or regulation enforced by the department, and requiring the owner to remove such nuisance or violation within ten (10) days after service of such notice or order or such lesser period of time where an emergency exists as may be determined by the department head. Such notice or order shall provide that if the owner fails to remove such nuisance or violation within such period for compliance so prescribed, the department may remove or cause the removal of such nuisance or violation.

(b) *Removal of nuisance by the department:* If the nuisance or violation is not removed by the owner within the time prescribed by subsection (a) after service of the notice or order, the department may proceed with the removal of the nuisance or violation as provided in the notice or order, or may cause the removal to be done.

(c) *Vacating and demolishing building:* If the owner interferes in any way with, or causes delay to, the taking of corrective action by the city, the department may cause the building, in whole or in part, to be vacated and sealed up or vacated and demolished, but, in such case the department shall commence a proceeding or action in the supreme court for such relief in the manner prescribed by Article 63 of the Civil Practice Law and Rules. During the pendency of the proceeding, the department may obtain a temporary order for the immediate vacating of the building upon proof of a present danger to human life or detriment to health. In addition to the owner, all tenants, mortgagees and lienors of record shall be necessary parties to such proceedings.

(d) *Orders to demolish:* Whenever the commissioner shall determine pursuant to this section that a building constitutes a nuisance, and after having followed the provisions of this section, determines that the removal of the nuisance requires the demolition of the building, or part of the building, the commissioner shall cause to be issued a second order which shall require the demolition of the building, addressed to the property owner and served in the manner prescribed by this division. If the owner fails to comply with the order of demolition within fifteen (15) days after service upon him of the order, upon notice to the property owner, mortgagees, tenants and lienors, the corporation counsel shall present the order to demolish and the records and papers of all prior proceedings upon which the order is based before the justice holding a special term of the supreme court for the county for review of the determination.

(e) *Interference with corrective action:* If the owner interferes in any way with, or causes delay to the taking of corrective action by the city pursuant to this section, the department may commence a proceeding or action in the supreme court to restrain the interference or delay.

(f) *Costs and expenses:*

(1) If the department proceeds to execute a notice or order issued by it or by the court for the removal of a nuisance or violation pursuant to this section, the department may let contracts therefor. The cost of executing the notice or order, whether or not carried out pursuant to court order, may be met from any appropriations made therefor or, if an appropriation has not been made or is insufficient, from the proceeds of the sale of obligations pursuant to the Local Finance Law. The department shall keep a record of the notices and orders together with the acts done and the items of cost incurred in their execution.

(2) The cost and expense of executing a notice or order pursuant to this section and all costs incurred in labor performed and materials used in repairing such property, land or unimproved parcels or part thereof or demolishing the same by the city shall be paid for by the city in the same manner as other claims against the city are paid, and the commissioner of building and property conservation shall certify to the treasurer the cost and expenses of executing the notice or order and each labor performed and materials used in repairing such property, land or unimproved parcels or part thereof or demolishing the same, and upon receipt of the certification of such cost, the treasurer shall assess and enter as a lien against such property the certified cost thereof, and shall immediately after the entry of such assessment of such lien, send notice thereof and demand of payment thereof to the person, firm or corporation.

It shall be sufficient service of notice if it is posted in a conspicuous place upon the premises affected and a copy thereof mailed thereafter by certified mail to the person to whom it is directed at the address filed by him in the building department, and if his address is not so filed in the building department, then in such case, the notice shall be sent by certified mail to his last known address or place of residence, and in the event the said cost and expense is not paid within thirty (30) days thereafter, interest shall be payable from the date of entry of said lien at the rate of one and one-half (1 1/2) per cent per month or fraction thereof for each month thereafter and the same shall be collected and enforced in the same manner, by the same proceeding, at the same time, under the same penalties and having the same lien upon the property assessed as the general city tax and as a part thereof.

(3) Notwithstanding other provisions of this subsection and in addition to any other remedy available, the department may maintain an action against the owner to recover the cost of executing a notice or order pursuant to this section.

(4) The term "owner" as used in this subsection shall be the record holder of title of the building and vacant area and shall include any person, firm or corporation directly or indirectly in control of a building or vacant area or

part thereof.

(Code 1957, §§ 10-1129.5, 10-1129.8; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1060/71, § 5, 7-6-71; Ord. No. 1174/73, § 5, 7-10-73; Ord. No. 1282/75, § 1, 6-3-75; Ord. No. 1354/78, §§ 3, 4, 4-4-78)

Editor's note: Ord. No. 1354/78, § 3, adopted Apr. 4, 1978, repealed § 13-25(b), relating to the right of hearing before the housing appeals board. Section 4 amended subsection (c) and relettered subsections (c)--(g) as (b)--(f).

Sec. 13-26. Manner of service of notices and orders.

Unless an emergency exists, each notice or order issued by the department pursuant to this division, relative to a premises, shall be served at least ten (10) days before the time for compliance therewith. It shall be sufficient service of a departmental notice or order if it is posted in a conspicuous place upon the premises affected, and a copy thereof mailed, on the same day it is posted, to the person to whom it is directed at the address filed by him in the building department, and if his address is not so filed in the building department, then in such case, the notice or order shall be sent by certified mail to his last known address or place of residence.

(Code 1957, § 10-1129.6; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1060/71, § 6, 7-6-71)

Secs. 13-27, 13-28. Reserved.

Editor's note: Ord. No. 1354/78, § 1, adopted Apr. 4, 1978, repealed § 13-27, dealing with appeals from the decision of the commissioner in any matter relative to the interpretation or enforcement of any of the provisions of this chapter. Said § 13-27 was derived from the following: Code 1957, § 10-1127; Ord. No. 704, § 1, adopted Mar. 3, 1964; Ord. No. 973/70, § 1, adopted June 9, 1970; Ord. No. 992/70, § 1, adopted Sept. 14, 1970; Ord. No. 1060/71, § 3, adopted July 6, 1971; and Ord. No. 1103/71, § 1, adopted Dec. 7, 1971. Section 2 of Ord. No. 1354/78 repealed § 13-28, dealing with the housing appeals board. Said section had the same derivation as § 13-27 except for Ord. No. 1103/71.

Sec. 13-29. Mortgage-in-Default Registry.

(a) *Legislative Intent*. It is the purpose and intent of this Section to establish a process to limit and reduce the number of deteriorating and/or dilapidated properties located within the City of Long Beach, specifically when a property is subject to a mortgage which is in default. It is the City's further intent to specifically establish a defaulted mortgage registration program as a mechanism to protect neighborhoods from blight due to lack of adequate maintenance and security of abandoned properties which are in default.

(b) *Definitions.(Applicable to this Section only)*

Abandoned Real Property in Default. Any real property that is under a current notice of default and/or notice of mortgagee's sale, pending tax assessor's lien sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

Enforcement Officer. Shall mean the Commissioner of Buildings or his/her designee.

Evidence of Vacancy. Any condition that, on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, electricity, water or other utilities turned off, stagnant swimming pool, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

Foreclosure. The process by which a property, placed as security for a mortgage loan, after a judicial process is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

Vacant. Any building or structure shall be deemed to be vacant if no person or persons actually currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupant(s), or tenant(s) on a permanent, non-transient basis.

(c) *Applicability*.

This Section shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the City above and beyond any other state, county and/or local provisions for same. This Section relates to property subject to a mortgage which has been determined by the mortgagee to be in default.

(d) *Registration of real property with mortgage-in-default.*

(1) If the property is occupied but remains in default, it shall be inspected by the mortgagee, or said mortgagee's designee, monthly until the mortgagor or other party remedies the default.

(2) Within ten (10) days of the date that the mortgagee declares its mortgage on a particular parcel of real property to be in default, the mortgagee shall inspect and register the real property with the City's mortgage-in-default registry. The mortgagee shall include in the registration if the property is vacant or occupied.

(3) Mortgage-in-default registration. Registration pursuant to this Section shall contain the name of the mortgagee and mortgage servicer; the direct mailing address of the mortgagee and servicer, e-mail address and telephone number; the name and address, e-mail and telephone number of a local property manager who shall be responsible for the inspection, security and maintenance of the property. The local property manager named in the registration shall be available Monday through Friday between 9:00 a.m. and 5:00 p.m., as the City's primary contact.

(4) An annual non-refundable registration fee in the amount of $500 per property shall accompany the mortgage-in-default registration form(s). Subsequent annual registrations of defaulted properties and fees in the amount of $500 are due within ten (10) days of the expiration of the previous registration.

(5) This Section shall also apply to properties that have been the subject of foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure, and any properties transferred under a deed in lieu of foreclosure/sale.

(6) Properties subject to this section shall remain under the annual mortgage-in-default registration requirement, inspection, security and maintenance standards of this Section as long as they remain in default.

(7) Any person or other legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.

(8) Failure of the mortgagee and/or property owner of record to properly register or to revise from time to time the registration to reflect a change of circumstances as required by the Section is a violation of the City's Code, and subject to the penalties as set forth herein.

(e) *Maintenance requirements*.

(1) Properties subject to this Section shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building and construction materials left idle for an unreasonable period of time, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded personal items, including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned or not being properly maintained.

(2) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that substantially matches the color of the exterior structure, or by replacement with substantially similar materials in substantially similar colors and/or designs.

(3) Yards shall be landscaped and maintained pursuant to the standards previously established in the Code of Ordinances.

(4) Pools and spas shall be kept in working order so that pool and spa water remains free and clear of algae, pollutants and debris. Pools and spas shall comply with the enclosure requirements and any other requirements of this Code and the New York State Building Code and New York State Property Maintenance Code, as amended from time to time.

(5) Failure of the mortgagee and/or property owner of record to properly maintain the property is a violation of the City's Code, and subject to the penalties as set forth herein.

(f) *Security requirements*.

(1) Properties subject to this Section shall be maintained in a "secure manner" so as not to be accessible to unauthorized persons.

(2) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property and/or structure.

Broken windows shall be secured by re-glazing or boarding of the window.

(3) If a mortgage on property is in default and has become vacant, the local property manager or mortgagee must perform weekly inspections to verify compliance with the requirements of this section and any other applicable laws and City ordinances.

(4) Failure of the mortgagee and/or the property owner of record to properly inspect and secure the property, and post and maintain the signage noted in this Section, is a violation of this Code, and subject to the penalties as set forth herein.

(g) *Opposing, obstructing enforcement officer; penalty.*

Whoever opposes, obstructs or resists any enforcement officer, zoning inspector, building inspector, fire marshal or any person authorized by the Building Department, in the discharged of duties as provided in this Section, upon conviction may be punished as provided in New York State Penal Code § 195.05.

(h) *Immunity of enforcement officer*.

Any enforcement officer, or person authorized by the Building Department, shall be immune from prosecution, civil or criminal, for reasonable, good faith entrance upon real property while in the discharge of duties imposed by this Section.

(i) *Additional authority*.

The Code Enforcement Officer shall have authority to require the mortgagee and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures, including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard, or other measures as may be reasonably required to prevent a decline of the property. Nothing contained in this Section shall prohibit the City from enforcing its Code of Ordinances by any other means.

(j) *Violations and penalties*.

Any person, corporation, or entity who shall violate any of the provisions of this Section or who shall fail to comply therewith or with any of the requirements shall be guilty of a violation and, upon conviction thereof, a fine of not less than $250 nor more than $1,000 must be imposed or a term of imprisonment for a period not to exceed 15 days may be imposed, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, shall be guilty of a violation, and upon conviction, a fine of not less than $1,000 nor more than $2,500 must be imposed or a term of imprisonment for a period not to exceed 15 days may be imposed, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, shall be guilty of a violation, and a fine of not less than $2,500 nor more than $5,000 must be imposed or a term of imprisonment for a period not to exceed 15 days may be imposed, or both.

(Ord. No. 3024/18, § 2, 9-4-2018; Ord. No. 3027/19; 02-19-2019)

Sec. 13-29. Mortgage-in-Default Registry.

Secs. 13-30--13-60. Reserved.

Sec. 13-29. Mortgage-in-Default Registry.

ARTICLE III. MINIMUM STANDARDS

Sec. 13-61. Occupied buildings to comply with this article.

Buildings occupied in whole or in part shall comply with the requirements of this article concerning occupancy, size, light and ventilation.

(Code 1957, § 10-1104(A); Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-62. Maximum occupancy and minimum room size.

(a) *Calculation.* For the purpose of this section each person twelve (12) years of age and older shall be counted as one (1) person; children more than one (1) year old but less than twelve (12) years old shall be deemed to be one-half (1/2) person; and infants up to one (1) year old shall not be counted. The floor area shall be based upon the area of habitable rooms contained within the living unit, exclusive of utility and storage rooms, halls, closets, porches and any connecting spaces. Any area in a habitable room which has a ceiling height of less than five (5) feet shall not be counted or included in the computation of space.

(b) *Dwelling, studio and rooming units.* Each dwelling unit, studio unit or rooming unit shall have at least one hundred fifty (150) square feet of habitable floor space for the first occupant, plus seventy-five (75) square feet of habitable floor space for each additional occupant. Each dwelling unit, studio unit or rooming unit shall contain one (1) habitable room with at least one hundred fifty (150) square feet of floor area and a minimum horizontal dimension of eight (8) feet. Any additional habitable rooms shall have a minimum floor area of seventy (70) square feet and a minimum horizontal dimension of seven (7) feet.

(c) *Ceiling height.* At least one-half (1/2) of the floor space of any habitable room must have an average ceiling height of at least seven (7) feet. Portions of floor spaces having ceiling heights less than five (5) feet shall not be counted in computing the average ceiling height.

(Code 1957, § 10-1104(B); Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1739/91, § 1, 1-2-91)

Sec. 13-63. Prohibited uses.

(a) It shall be prohibited to use for sleeping purposes any kitchen, nonhabitable space or public space.

(b) It shall be prohibited in rooming houses to use for dining purposes any communal kitchen containing less than one hundred (100) square feet of floor area, or any nonhabitable space or public space other than dining space.

(c) It shall be prohibited to cook or prepare food or eat meals in rooming units.

(d) It shall be prohibited to use any cellar space as habitable space. Play or recreation rooms may be located below grade.

(Code 1957, § 10-1104(C); Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-64. Basements and cellars generally.

The basement or cellar of any building shall be dry and ventilated and shall be kept free from rubbish accumulation and infestation.

(Code 1957, § 10-1105; Ord. No. 704, § 1, 3-3-64; Ord. No. 886, § 1, 5-7-68; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-65. Basement dwelling units.

No room in any basement shall be occupied as a habitable room unless:

(a) The finished floor surface is not more than four (4) feet below grade, and

(b) The ceiling is not less than four (4) feet above grade, and

(c) The floors and walls are waterproof and dampproof in accordance with an approved method, if in contact with earth. The waterproofing shall be between the floor or wall finish and the ground, and

(d) The required minimum window area of every habitable room is entirely above grade of the ground adjoining such window area, not including stairwells and access ways.

(Code 1957, § 10-1106; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-66. Lighting and ventilation.

Each habitable room in a dwelling, dwelling unit or rooming unit shall contain a window or windows opening directly to the outside air, and the total area of the window or windows shall not be less than ten per cent (10%) of the floor area of the rooms; however, the window shall not be less than ten (10) square feet. All window sashes shall be glazed and provided with suitable hardware and shall be made to open to the extent of not less than five per cent (5%) of the floor area of the room.

(Code 1957, § 10-1107; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-67. Heating.

(a) *Generally.* Every dwelling, multiple dwelling, rooming house and hotel shall have heating facilities, which shall be properly installed and maintained in good working order, and shall safely and adequately heat all habitable rooms, bathrooms, shower rooms, and water closet compartments. Heating facilities and their accompanying chimneys, flues or stacks shall be installed in compliance with the provisions of this Code and other ordinances of the city and shall be maintained in good order and repair so that they are capable of safely and adequately providing heat to enclosed spaces which are or may be normally occupied. Doors, windows and other parts of a building shall be constructed and

maintained so as to prevent abnormal heat losses. Heating facilities utilizing gas as a fuel shall have a shutoff valve provided at or near the source of supply to the facility.

(b) *Dwellings.* Any owner of a dwelling unit which is leased, let, rented or occupied by another shall furnish heat to all habitable rooms, bathrooms, shower rooms, toilet rooms and compartments of such dwelling so as to maintain in each room a temperature of not less than seventy (70) degrees Fahrenheit during the hours of 6:00 a.m. to 11:00 p.m., and not less than sixty-seven (67) degrees Fahrenheit during the hours of 11:00 p.m. to 6:00 a.m., at a distance of five (5) feet above floor level and three (3) feet from an outside wall. Such temperature shall be maintained each day between the first day of October and the thirty-first day of May, inclusive.

(c) *Room or space heaters.* No room or space heater shall be placed so as to cause a fire hazard to walls, curtains, furniture, open doors and to the free movement of persons within the room where the heater is located. Room or space heaters utilizing gas as a fuel shall be connected to the supply with either rigid pipe, approved flexible metal tubing and fittings or with semirigid tubing and fittings. Room or space heaters utilizing electric energy as a power source shall be of a type approved by the Underwriters' Laboratories, Incorporated, both as to its assembly and as to its component parts. Room or space heaters utilizing liquid or solid fuels must be of an approved size and type and must be installed in an approved manner, in accordance with the requirements of state law, the provisions of this Code and other city ordinances. Each space heater shall be properly vented through an approved flue leading to the outer air and shall be adequately insulated from all combustible materials.

(Code 1957, § 10-1108; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1213/74, § 1, 3-5-74; Ord. No. 1439/80, § 1, 12-2-80)

Sec. 13-68. Dampness.

The floors and walls of each building, each dwelling unit, studio unit and each rooming unit shall be kept free from dampness.

(Code 1957, § 10-1109; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-69. Water supplies and sinks.

(a) Each building shall be provided with a potable water supply, servicing all required plumbing fixtures, devices and appurtenances in sufficient volume and at pressure adequate to enable them to function satisfactorily and without undue noise under normal operating conditions.

(b) There shall be at least one kitchen sink installed and maintained in good, clean operation in each dwelling unit and studio unit.

(c) Each kitchen sink, lavatory, bathtub or shower required by this article or other law, provision of this Code or other city ordinance shall be supplied with both hot and cold water properly connected to a supply of potable water.

(Code 1957, § 10-1110; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-70. Toilet rooms and bathrooms.

(a) *Number and location.* Each dwelling unit shall contain within its walls, a room, separate from the habitable rooms, which affords privacy and which is equipped with a flush water closet and a lavatory basin. Each dwelling unit shall contain within its walls, a room, separate from the habitable rooms, which affords privacy to a person in the room and which is equipped with a bathtub or shower. In each rooming house the following minimum plumbing fixtures are required for each multiple of eight (8) persons or fraction thereof within the rooming house, including members of the family if they are to share the use of the facilities: Water closet, bathtub or shower, and lavatory.

(b) *Arrangement.* Toilet rooms and bathrooms in dwelling units, studio units and rooming units shall be accessible by a common hall without going outside the house, or from any sleeping room without passing through any other sleeping room. Toilet rooms and bathrooms within dwelling units and those in public spaces available for the use of dwelling units, studio units and rooming units shall have provisions made for privacy.

(c) *Floors.* Shower stalls shall be provided with waterproof floors and with a wall wainscot made of at least a water-resistant material and extending to a minimum height of five (5) feet, six (6) inches above the floor level. The floors of existing toilet rooms and bathrooms shall be provided, as a minimum, with a surface treatment which is reasonably impervious to moisture. The floors of new toilet rooms and bathrooms in private dwellings shall be covered, as a minimum, with a moisture-resistant material. The floors of new toilet rooms and bathrooms in multiple dwellings and in non-residence buildings shall be waterproof; the waterproofing shall extend six (6) inches or more on the walls above the floors except at doors. Floors shall be kept in a dry, clean and sanitary condition by the occupant.

(d) *Employee facilities.* Where there are five (5) or more employees in a multiple dwelling, separate toilet room facilities shall be provided for them and for each sex. The facilities shall be readily accessible to the employees and shall not open directly into any public kitchen or other public space used for the cooking or preparation of food.

(e) *Light and ventilation.* Each toilet room and each bathroom in a building shall be provided with adequate light and ventilation, either natural, mechanical or artificial, in accordance with the requirements of the city building code.

(Code 1957, § 10-1111; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-71. Plumbing.

(a) All plumbing fixtures, water supply lines, sewer lines and waste disposal systems and their appurtenances shall be properly installed in accordance with the requirements of the plumbing code of the city; they shall be maintained in a safe, sanitary and operating condition, free from defects, leaks and obstructions.

(b) Each occupant shall be responsible for the exercise of proper care and cleanliness in the use and operation of all plumbing fixtures, sanitary facilities, appliances and equipment therein. This liability on the part of the occupant shall not relieve the owner of the responsibility of remedying any defect, nor any other liability imposed upon the owner by law, but it shall subject the occupant to the penalties of this chapter, upon proper proof, of any wilful or malicious act he has performed.

(Code 1957, § 10-1112; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-72. Reserved.

Editor's note: Ord. No. 1732/90, § 1, adopted August 21, 1990, which enacted a new Ch. 10, redesignated § 13-72, electrical requirements, as § 10-62.

Sec. 13-73. Entrances and exits.

(a) Each dwelling unit and each rooming unit shall have a safe, unobstructed means of egress leading to safe and open space at ground level.

(b) Each hallway, stairway, corridor, exit, fire escape door and other means of egress shall be kept clear at all times.

(c) Storage rooms and storage lockers shall not be used for storage of junk, rubbish or waste.

(d) Closets or storage beneath stairways are prohibited in any multi-family dwelling or any rooming house.

(e) There shall be at least two (2) means of egress available from each story of each multi-family dwelling and of each rooming house if the dwelling is four (4) or more stories in height or is three (3) stories in height and has at least five (5) habitable rooms on the third story. A basement used as a dwelling unit shall not count as a story for the purpose of this section.

(f) Exit facilities from dwelling or dwelling units shall lead to a public thoroughfare, either directly or through a court or yard, and passage to the exits shall not lead through any other dwelling or dwelling unit.

(g) Exits shall be so arranged, constructed and maintained that occupants may escape safely from the building in the event of an emergency. Stairs, both interior and exterior, shall be of sufficient width, as determined by the city building code, so as to serve the number of occupants to be accommodated. Adequate railings or guards shall be provided in a safe condition on all open portions of stairs, balconies, landings and stairwells.

(h) In any building, any floor area maintained in a vacant status or about to become vacant, is to have at least one (1) access thereto which meets the approval of the commissioner.

(Code 1957, § 10-1115; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-74. Cooking facilities.

(a) No owner, operator or occupant shall furnish or use any cooking equipment which does not comply with this chapter.

(b) Each piece of cooking equipment shall be so constructed and installed that it will function safely and effectively, and shall be maintained in a sound working condition.

(c) Portable cooking equipment employing gasoline as fuel for cooking is prohibited.

(d) All heating, cooking and water heating equipment burning solid fuels shall be rigidly connected to a chimney or flue, and such heating equipment, burning liquid or gaseous fuels, shall be rigidly connected to a supply line and, where required, to a chimney, flue or vent.

(e) Fuels shall be stored in accordance with generally accepted practice in a manner which will minimize the danger of fire. No fuel oil, gasoline or highly inflammable fuel shall be stored within any structure, used for human habitation, except in a manner approved by the Department of Buildings and Property Conservation.

(Code 1957, § 10-1116; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 3052/21, 07-06-2021)

Sec. 13-75. Property maintenance requirements.

(a) *General requirements:* Residential, commercial and industrial buildings, whether occupied or vacant, and accessory structures, shall be maintained in conformity with the provisions of this article in a safe, sanitary and operating condition.

(b) *Open areas:*

(1) Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent the development of stagnant ponds. Gutters, culverts, catch basins, drain inlets, storm water sewers, approved combined storm and sanitary sewers, or other satisfactory drainage systems shall be utilized where necessary. No roof, surface or sanitary drainage shall create a structural, safety or health hazard by reason of construction, maintenance or manner of discharge.

(2) Fences and other minor construction shall be maintained in a safe and substantial condition.

(3) Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled, or necessary repairs or replacement carried out.

(4) Yards, courts and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation. They shall be maintained in a manner that will prevent dust or other particles from being blown about the neighborhood. Open wells, cesspools or cisterns shall be securely closed or barricaded from access to the public. For the purpose of this paragraph, the term "yards" shall include the areas between the building lines and the curblines of the streets on which the particular buildings

face.

(5) It shall be unlawful for any owner, occupant or person having control of any lot or land, or of a plot of land along the sidewalk or street adjacent to the same between the sidewalk and the curb, to permit any weeds or grass to grow to a height greater than six (6) inches on the average, or to permit any accumulation of dead weeds, or cut grass or brush thereon.

(a) The planting, growing and/or maintaining of all forms of invasive bamboo, also known as running bamboo, yellow bamboo, and/or Leptomorphs, is prohibited on any lot or land, or of a plot of land along the sidewalk or street adjacent to the same between the sidewalk and the curb within the City of Long Beach.

A property owner maintaining any species of bamboo, prior to the enactment of this law, may continue to maintain said bamboo, provided it does not encroach or grow onto any adjoining or neighboring property.

The planting, growing and/or maintaining of other related noninvasive bamboo genera, within the City of Long Beach, is permitted on any lot or land, or of a plot of land along the sidewalk or street adjacent to the same between the sidewalk and the curb, provided it does not encroach or grow onto any adjoining or neighboring property.

(6) No person shall remove or cause to be removed any accumulation of sand on any vacant lot or yard unless and until the owner of such lot or yard shall first request the city manager, in writing sent by certified mail, return receipt requested, to have such accumulation of sand removed from said lot or yard, accurately describing such premises. If the city shall not remove such accumulation of sand within fifteen (15) days after the mailing of such certified letter, the owner may then remove or cause to be removed such accumulation of sand at his own cost and expense.

(c) *Buildings and structures:*

(1) The exterior of the premises, and/or the exterior of the structure, and/or the condition of accessory structures, either occupied or unoccupied, shall be maintained so that the appearance of the premises and/or structure shall not constitute a blighting factor within the same business or residential district.

(2) All boards and wood, including floorboards, subfloors, joists, beams, bridging, wall studs and all other materials in any interior or exterior floor, wall, roof or other part of the structure, shall be maintained to be free from cracks, termite damage or rot. Any damaged material shall be replaced.

(3) The foundation walls of every building shall be maintained in good repair and be structurally sound.

(4) The exterior building walls, roof or foundation of every building, structure or accessory structure shall not have any holes, loose boards, unsecured objects or materials, or any broken, cracked or damaged finish.

(5) The exterior building walls, roof or foundation of every building, structure or accessory structure shall be so maintained as to be weather and water tight, preventing penetration by weather elements and undue heat loss.

(6) Exterior walls, siding, windows, or doors of residential or nonresidential structures and/or reconstructed exterior walls, siding, windows, or doors of residential or nonresidential structures shall be of standard quality and appearance commensurate with the character of the properties within the same business or residential districts where the property is located. The material used will not be of a kind that by their appearance under prevailing appraisal practices and standards will depreciate the values of the neighboring and adjoining premises as aforesaid.

(7) The owner of a vacated building shall take such steps and perform such acts as may be required of him from time to time, to insure that the building and its adjoining yards remain safe and secure, and do not present a hazard to adjoining property or to the public.

(8) Buildings and structures shall be maintained in such a condition that they shall not become an unoccupied hazard, as defined in this chapter.

(d) *Infestation and screening:*

(1) Grounds, buildings and structures shall be maintained free of insects, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall conform with generally accepted practice.

(2) Where the potential for rodent or vermin infestation exists, windows and other openings in basements and cellars shall be appropriately screened with wire mesh or other suitable materials.

(3) From the first day of June to the first day of October, each door opening directly from any dwelling to outdoor space, which doorway is used for ventilation, shall be supplied with a screen together with a self-closing type device in good working condition, and windows and other openings used for ventilation shall be likewise supplied with screens.

(e) *Garbage and refuse:*

(1) Each occupant of a private dwelling and each owner of a multiple dwelling or of any other building from which garbage, rubbish, mixed refuse, ashes or building wastes are collected by the department of public works shall provide standard refuse containers sufficient in number to hold all collectible wastes accumulating between scheduled collections by the department of public works. Standard containers which have rusted through the sides or bottom or are bent, dented, or damaged to the extent that they are not watertight, flytight or rodenttight shall not be used for storing garbage, rubbish or refuse. Containers declared unfit or useless shall be replaced with new standard-type containers.

(2) In multiple dwellings, it shall be prohibited to store or accumulate garbage or refuse in public halls and stairways.

(3) No refrigerator may be discarded, abandoned or stored in a place accessible to children without first removing any locking devices or the hinges of the door or doors.

(f) *Junked vehicles:*

(1) A junked vehicle may not be parked, stored or left in the open unless it is necessary for the operation of a business enterprise lawfully situated on private property. Any other junked vehicle or vehicles left in the open must be removed from the property to an approved location.

(2) A junked vehicle classified as a "restoration" shall be ordered removed or relocated in accordance with procedures provided elsewhere in this Code.

(3) A junked vehicle classified as a "wreck" shall be deemed to be a serious hazard to public safety and welfare and is hereby declared to be a nuisance of an emergent nature. Notwithstanding enforcement procedures to the contrary elsewhere in this Code, the commissioner may order the removal of a junked vehicle classified as a "wreck" within five (5) days from the date of service of an order to that effect.

(4) If a property owner has been served a notice and order to relocate or otherwise remove a junked vehicle, and elects to relinquish his rights and interest to the vehicle and to permit the city to carry out the abatement of the violation as listed on the notice and order without further delay, then, in that event the city may proceed to remove the violation, provided the owner signs a waiver, in writing, to this effect, and submits it to the commissioner, holding the city harmless for any damage claims. Any expense incurred by the city as a result of removing any junked vehicles or any other action taken to remove existing nuisances, following receipt of a waiver by the property owner or his duly authorized representative, shall be at city expense, other provisions of this Code notwithstanding.

(5) In particular locations where the collection of junked vehicles occurs on more than one (1) occasion, the commissioner may order that additional safeguards be installed to either prevent or deter the further collection of a junked vehicle or vehicles in said location.

(Code 1957, § 10-1116; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1449/81, § 1, 5-19-81; Ord. No. 1681/88, § 1, 10-4-88; Ord. No. 1752/91, § 2, 4-16-91; Ord. no. 2073/12, § 1, 8-21-2012)

Sec. 13-76. Responsibilities of occupants.

Occupants of dwelling units, studio units and rooming units shall be responsible for compliance with this chapter in regard to the following:

(a) Limiting occupancy of that part of the premises which he occupies or controls to the maximum permitted by this article.

(b) Maintenance of that part of the premises which he occupies or controls in

a clean, sanitary and safe condition.

(c) Maintenance of all plumbing, cooking and refrigeration fixtures and appliances as well as other building equipment and storage facilities in that part of the premises which he occupies or controls in a clean and sanitary condition, and providing reasonable care in the operation and use thereof.

(d) Keeping exits from his dwelling unit, studio unit or rooming unit clear and unencumbered.

(e) Disposal of garbage and refuse into provided facilities in a clean and sanitary manner, in accordance with the provisions of this Code.

(f) Extermination of insects, rodents or other pests within his dwelling unit, studio unit or rooming unit.

(g) Maintaining of yards, lawns and courts in a clean, sanitary and safe condition and free from infestation insofar as the occupant occupies or controls the yards, lawns and courts or any parts thereof.

(h) The installation and removal of required screens.

(i) Elimination of all uses prohibited by this article, for that part of the premises which he occupies, controls or has accessibility thereto.

(Code 1957, § 10-1118; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-77. Responsibilities of owners.

(a) Owners of premises shall be responsible for compliance with the provisions of this chapter and shall remain responsible therefor regardless of the fact that this chapter may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

(b) Owners and operators of multiple dwellings shall be responsible for proper installation, maintenance, condition and operation of service facilities and for furnishing adequate heat and hot water supply.

(c) Whenever any person shall be in actual possession of or have charge, care or control of any property within the city as executor, administrator, trustee, guardian, operator or agent, he shall be deemed and taken to be the owner of the property within the true intent and meaning of this chapter and shall be bound to comply with the provisions of this chapter to the same extent as the record owner; and notice to any such person or any order or decision of the commissioner shall be deemed and taken to be a good and sufficient notice, as if the person were actually the record owner of the property. In instances where an occupant is responsible or shares responsibility with the owner for the existence of one (1) or more violations of this chapter, the occupant shall be deemed and taken to be an owner within the true intent and meaning of this chapter.

(d) The owner of every building shall be responsible for maintaining on the front of each such building, whether residential or commercial, the street address

number of such building in numerals at least three (3) inches in height, which shall be unobstructed and clearly visible from the roadway or sidewalk in front of such building.

(Code 1957, § 10-1119; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70; Ord. No. 1603/86, § 1, 10-7-86)

Sec. 13-78. Responsibilities of rooming house operators.

Rooming house operators shall be responsible for compliance with the provisions of this chapter in regard to the following:

(a) Limiting occupancy to the maximum permitted by this article.

(b) Maintenance of safe and sanitary conditions in all parts of the rooming house premises.

(c) Maintenance and operation of all required service facilities.

(d) Maintenance of all plumbing, electrical and heating fixtures and appliances, as well as the building equipment and facilities, in an operative, clean and sanitary condition.

(e) Sanitary maintenance of walls, floors and ceilings.

(f) Keeping exits clear and unencumbered.

(g) Disposal of building garbage and refuse in a clean and sanitary manner, in accordance with the provisions of this Code.

(h) Extermination of insects, rodents or other pests on the premises.

(i) Maintaining of yards, lawns and courts in a clean, sanitary and safe condition and free from infestation.

(j) Providing, hanging and removing required screens.

(k) No person shall operate a rooming house unless he holds a valid rooming house permit approved by the enforcement officer. The permit is not transferable and shall apply only to the structure for which it is issued. Compliance with the provisions of this chapter shall entitle the owner or operator of a rooming house to the permit, and failure to comply shall call for its refusal or revocation. Every rooming house permit shall expire at the end of one (1) year following its date of issuance.

(Code 1957, § 10-1120; Ord. No. 704, § 1, 3-3-64; Ord. No. 973/70, § 1, 6-9-70; Ord. No. 992/70, § 1, 9-14-70)

Sec. 13-78.1. Responsibilities of operators of dormitory/student residences.

Operators of dormitory/student residences shall be responsible for compliance with all of the provisions of this chapter and of the state building construction code, multiple dwelling section and of the multiple residence law, and more specifically, but not limited to, the following:

(a) Limiting occupancy to the maximum permitted by this article.

(b) Maintenance of safe and sanitary conditions in all parts of the dormitory/student residence premises.

(c) Maintenance and operation of all required service facilities.

(d) Maintenance of all plumbing, electrical and heating systems, fixtures and appliances, as well as the building equipment and facilities, in good operating, clean and sanitary condition.

(e) Sanitary maintenance of walls, floors and ceilings.

(f) Keeping all exits clear and unencumbered.

(g) Storage and disposal of all garbage and refuse in a clean and sanitary manner, in accordance with the provisions of this Code.

(h) Extermination of insects, rodents, vermin and all other pests on the premises.

(i) Maintaining all yards, lawns and courts in a clean, sanitary, orderly and safe condition and free of infestation.

(j) Providing, hanging and removing required screens and maintaining them in good condition.

(k) Any and all cooking facilities shall be restricted and confined to the common kitchen of the building and no cooking, preparation or heating of any food shall be permitted in any room used for sleeping, study, social or recreational purposes.

(Ord. No. 1436/80, § 2, 11-5-80)

Sec. 13-78.1. Responsibilities of operators of dormitory/student residences.

ARTICLE IV. SWIMMING POOLS LAW

It is hereby declared and found that the public interest requires the regulation of the use and maintenance of swimming pools. By this enactment, the city council of the City of Long Beach, seeks to remove the danger of injury or drowning arising from the use of unprotected swimming pools.

Sec. 13-79. Conformity with article required.

No outdoor water pool shall be constructed, erected, or maintained unless in conformity with this article.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-80. Definition.

"Outdoor water pools" shall, for the purpose of this article, be construed to mean any swimming pool, portable tank, depression or excavation in any material, dike or berm constructed, erected or maintained which will cause the retaining of water to a greater depth than eighteen (18) inches and/or having a larger plane surface area of water greater than sixty (60) square feet. The word "pool" shall be construed to mean outdoor water pool.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-81. Installation in residential districts.

Swimming pools may be installed in all residential districts only as accessory to a dwelling for the private use of the owners or occupants of such dwelling and their families and guests, or as accessory to a nursery school or day camp for children and only on the conditions provided in this article.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-82. Location, accessory structure requirements.

No outdoor swimming pool shall be installed or maintained unless:

(a) Such pool is installed in the rear or side yard of the premises.

(b) There shall be erected and maintained a swimming pool fence enclosing the portion of the area upon which such swimming pool shall be installed. Such fence shall be either a chain link fence or a quality timber stockade fence in accordance with the following specifications:

Chain link fence: Said fence shall extend from the ground to a height of not more than six (6) feet nor less than five (5) feet, with top and bottom rail, posts spaced not more than eight (8) feet on centers and set to extend three (3) feet below grade, in an eight (8) inch diameter concrete footing. Chain link fabric shall be fastened to posts and rails so that the bottom of the mesh is not more

than one inch above grade. Fabric shall be fastened securely to posts and rails by means of wire clips not more than thirty (30) inches on center.

Timber fence: Said fence shall extend from the ground to a height of not more than six (6) feet nor less than five (5) feet with two (2) or more horizontal rails on the pool side. Posts shall be two-inch galvanized pipe, spaced not more than eight (8) feet on centers and set to extend three (3) feet below grade, in an eight-inch concrete footing. The frame design shall produce a rigid structure. Fabric coverings and/or fence materials shall be the No. 1 grade of the type used or chosen.

(c) Every gate in the fence enclosing such pool, except an opening through the dwelling or other main building of the premises, should be secured by a lock which can be opened only by a key from the outside and without a key from the inside, with a spring or other device to keep said gate securely closed and locked at all times when the owner or a responsible representative of the premises is not present at such pool.

Swimming pool cover: In lieu of the aforementioned fencing, a swimming pool cover which encloses the exposed water area of the pool shall be securely fastened whenever the pool is left unattended. Such swimming pool cover shall be constructed of such material and fastened in such a manner and be of adequate strength and design to prevent the use of the pool by infants and children when not accompanied by an adult. "Adequate strength" as used in this section shall mean the ability at all times to support a weight of at least sixty (60) pounds above the level of the water. This subsection shall not apply if the sides of the pool are at least six (6) feet in height and entrance can be gained only by use of a removable ladder which is detached from the pool when no adult is present, the bottom of the ladder being at least six (6) feet above the ground.

(d) Such pool shall not be erected closer than four (4) feet from the rear and side property lines of the premises, or, in the case of a corner lot, not closer than ten (10) feet from any property line along an abutting street.

(e) Such pool does not occupy more than forty (40) per cent of the area of the rear yard excluding all garages or other accessory structures located in such area.

(f) A cabana shall be permitted as an accessory to such swimming pool provided (1) such cabana does not exceed seven and one-half (7 1/2) feet in height and seven hundred (700) cubic feet, in total size; (2) such cabana shall be located at least four (4) feet away from all adjoining property lines and its entrance is located within the required fencing surrounding the swimming pool; (3) a cabana shall be used solely for the purpose of showering and dressing in conjunction with the use of the

swimming pool; (4) the department of buildings may use any reasonable methods to determine that subdivision (f) is being complied with, including the requirement of submission by the property owner of an affidavit stating that the proposed use of the cabana shall be limited to the requirement of subsection (3) of this subdivision.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-83. Filling pools; treatment of water.

No swimming pool shall be installed or maintained unless:

(a) The department of buildings is satisfied that the inlet shall be six (6) inches above the highest water level of the pool and securely attached or a vacuum breaker shall be installed to prevent water from the pool being drawn into the domestic water supply.

(b) The permissible hours for filling and the allowable quantities to be used shall be as follows:

(1) Prior to May fifteenth there shall be no restriction on the hours of filling.

(2) Between May fifteenth and September fifteenth the consumption of water for all pool purposes shall not exceed one thousand (1,000) gallons per day.

(3) Where the pool has not been filled prior to May fifteenth, then between May fifteenth and June fifteenth, upon application to the city manager, permission may be granted in writing by the city manager, which will permit quantities in excess of one thousand (1,000) gallons per day to be added to the pool system, providing such additions are made only between the hours of 11:00 p.m. of one day and 6:00 a.m. of the following day, and on the calendar days authorized by the city manager.

(c) Such pool be chemically treated in a manner sufficient to maintain the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-84. Prohibited practices.

(a) Discharge: No effluent of any nature whatsoever from the pool system shall be discharged into the city's sanitary sewer system. All effluent or other discharge from the pool system shall be drained into adequate tile fields, diffusion wells or other facilities meeting the approval of the county board of health and City of Long Beach, department of buildings.

(b) All pools must be supplied with water from a metered source or from a private well and must be equipped with a water recirculating device to provide a continuous supply of clear, wholesome water.

(c) No loudspeaker device which can be heard beyond the property lines of the

premises on which any swimming pool has been installed may be operated in connection with such pool, nor may any lighting be installed in connection therewith which shall throw any rays beyond such property lines.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-85. Materials of construction.

No pool shall be built, constructed or maintained except of materials having adequate strength to retain the water contained therein. They shall be designed in accordance with sound engineering practice and the applicant shall furnish complete plans, data and specifications to enable the department of buildings to evaluate these structures.

(a) Pools shall be built watertight. The inside surface shall be made of a smooth, nonabsorbent material with rounded corners, and shall be so constructed as to be easily cleaned.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-86. Permits.

Permits for the construction, erection and maintenance of such pool shall be issued by the department of buildings, and shall be subject to all applicable provisions of the pools ordinance of the City of Long Beach, and of the building code of the City of Long Beach. Permit fee shall be twenty-five dollars ($25.00) for the construction, erection or maintenance of a permanent-type pool. An annual inspection certificate to be issued by the department of buildings, shall be required prior to the use of all pools for bathing. The fee for such annual inspection shall be five dollars ($5.00). Permits may be revoked for cause by the city, after a hearing.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-87. Exclusions.

Excluded from the provisions of this article shall be pools under three hundred (300) gallons capacity with a depth of less than eighteen (18) inches and a plane surface area of water of less than sixty (60) square feet.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-88. Severability.

The provisions of this article are hereby declared to be severable, and if any section, sentence, clause or phrase hereof shall, for any reason, be held to be invalid, ineffective, in conflict with regulations of other authorities or unconstitutional, such decision shall not affect the validity of the remaining portions hereof, but such portions shall remain in full force and effect. Each pool shall comply with the rules and regulations of the state and county as well as the City of Long Beach as to sanitation, safety, cleanliness and other related features.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-89. Administration, enforcement.

The administration and enforcement of this article shall be under the jurisdiction of the department of buildings of the City of Long Beach, subject to the direction of the city council.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-90. Penalty.

Any person, persons, association or corporation committing an offense against this article or any section or provision thereof is guilty of a violation punishable by a fine not to exceed two hundred fifty dollars ($250.00) and/or imprisonment or both such fine and/or imprisonment. Each day such violation continues shall constitute a separate violation.

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-91. Title.

This article shall be known and cited as the "Swimming Pools Law of the City of Long Beach".

(Ord. No. 1284/75, § 1, 6-17-75)

Sec. 13-92. Effective date.

This article shall take effect immediately upon the final passage thereof.

(Ord. No. 1284/75, § 1, 6-17-75)

Secs. 13-93, 13-94. Reserved.

ARTICLE V. SMOKE DETECTOR LAW

Sec. 13-95. Smoke detectors required.

(a) From and after September 1, 1983, all multiple dwellings, as defined in Section B108-3 of the State Building Construction Code applicable to Multiple Dwellings, shall be equipped by the owner or owners thereof with smoke detecting alarm devices.

(b) The number, type and locations of such smoke detecting alarm devices shall be determined in accordance with rules and regulations to be promulgated, and which may be amended, by the commissioner of buildings and filed in the commissioner's office, where they will be available to the public.

(c) Such smoke detecting alarm devices shall be supplied and installed by the owner or owners of all multiple dwellings within the City of Long Beach. Such smoke detecting alarm devices shall be designed to detect smoke and activate the alarm, shall be reasonably free from false alarms and shall provide visible and/or audible indication that the alarm is energized.

(Ord. No. 1489/82, § 1, 12-21-82)

Secs. 13-96--13-99. Reserved.

ARTICLE VI. SATELLITE-DISH TELEVISION ANTENNAS

Sec. 13-100. Legislative intent.

It has come to the attention of the city council that in some communities property owners have installed so-called satellite-dish television antennas for the purpose of receiving television programs on channels which cannot be received on other types of antennas, and that the dish antennas are often unsightly, pose a danger and/or interfere with the view of neighboring properties. By reason of the foregoing, it is hereby determined and declared that the public interest requires the regulation of the installation, use and maintenance of satellite-dish television antennas.

(Ord. No. 1575/85, § 1, 12-17-85)

Sec. 13-101. Permits required.

No satellite-dish television antenna shall be installed, used or maintained within the City of Long Beach unless the owner of the property on which it is installed, used or maintained shall first apply for and obtain a permit therefor from the building commissioner of the City of Long Beach, which dish antenna shall comply with all applicable provisions of the Code of Ordinances of the City of Long Beach. Any person who shall construct, use or maintain such a dish antenna without having first obtained such a permit shall be guilty of a violation punishable as provided in Section 13-10 of this Code of Ordinances.

(Ord. No. 1575/85, § 1, 12-17-85)

Sec. 13-102. Application for permit.

An application for a permit to install, use and/or maintain a satellite-dish television antenna shall be submitted by the owner of the property to the building commissioner on blanks furnished by the commissioner, together with a detailed statement in duplicate of the plans, drawings and specifications, as the commissioner may require, and shall pay a nonrefundable fee of fifty dollars ($50.00) therewith. The building commissioner shall refer all such applications where the diameter of the satellite dish is greater than twenty-four (24) inches to the zoning board of appeals of the City of Long Beach for approval as a special exception after a public hearing, all as provided in Chapter 20, Article II, of the City's Code of Ordinances, and section 9-111 of Appendix A of the Code of Ordinances, and the said owner shall comply with all the requirements of said article.

If the said zoning board shall approve such application, the building commissioner shall issue the permit, subject to all restrictions, limitations, reservations and conditions that the said zoning board and the building commissioner shall prescribe and impose. If said zoning board shall disapprove the application, the building commissioner shall deny said permit.

(Ord. No. 1575/85, § 1, 12-17-85; Ord. No. 1591/86, § 1, 5-20-86; Ord. No. 1830/95, § 1, 2-7-95)

Secs. 13-103--13-119. Reserved.

Sec. 13-102. Application for permit.

ARTICLE VII. DUNE PROTECTION

Sec. 13-120. Legislative findings.

The sand dunes and adjacent beaches on the ocean front which stands between the Atlantic Ocean and the upland within the City of Long Beach afford protection to the upland properties and improvements from coastal storm damage and erosion. Any removal or destructive modification of these sand dunes or beaches would weaken the integrity of this protective barrier and constitute a real danger to the health, safety and welfare of the inhabitants of the City of Long Beach. It is, therefore, imperative that the sand dunes and adjacent beaches be safeguarded through the maintenance of well-established vegetative dunes which offer the best natural protection against the ravages of sand, wind and water.

(Ord. No. 1585/86, § 1, 3-18-86)

Sec. 13-121. Definitions.

The following words and phrases, as used in this article, are defined as follows:

Barrier island. An island bordering on the Atlantic Ocean and entirely surrounded by water.

City. The City of Long Beach, New York.

Dune. A ridge or hill of loose, windblown, or artificially placed material thats principal components is sand.

(Ord. No. 1585/86, § 1, 3-18-86; Ord. No. 1666/88, § 1, 6-21-88)

Sec. 13-122. Establishment of dune protection zone.

A dune protection zone is hereby established in the City of Long Beach, bounded as follows: On the south by the high water mark of the Atlantic Ocean; on the north by the northerly line of the Boardwalk, as shown on the land and tax map of the County of Nassau; on the west by the westerly boundary of the city; and on the east by an imaginary line being an extension of the easterly side of New York Avenue, southerly to the Atlantic Ocean.

(Ord. No. 1585/86, § 1, 3-18-86)

Sec. 13-123. Prohibitions.

(a) It shall be unlawful for any person, firm, corporation or municipality to damage, destroy, remove, excavate or relocate any sand dune or portion thereof within the dune protection zone.

(b) It shall be unlawful for any person, firm, corporation or municipality to kill, destroy or remove in any manner any vegetation growing within the dune protection zone, except that certain species of vegetation may be removed from or planted in the dune protection zone specifically for erosion control with the approval of the city manager or his duly designated representative.

(c) No person, firm or public or private corporation shall trespass upon the dunes, and it shall be an offense against this article for any such person, firm or public or private corporation to trespass or walk upon any sand dune within a dune protection zone. For purposes of this section, "trespass" shall mean to transgress, cross, intrude, go upon, injure or damage, except at designated crossings.

(d) It shall be unlawful for any person, firm, corporation or municipality to operate or direct the operation of a vehicle of any description within the dune protection zone, except as necessary for erosion control with the approval of the city manager or his duly designated representative.

(Ord. No. 1585/86, § 1, 3-18-86)

Sec. 13-124. Penalties for violations; liability for damages.

(a) A person, firm, corporation or municipality who shall violate the provisions of this article shall, upon conviction of a first offense, be guilty of a violation punishable by a fine of not more than two hundred fifty dollars ($250.00) and/or not more than fifteen (15) days imprisonment; upon conviction of a second or subsequent offense, shall be guilty of a misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) and/or not more than thirty (30) days imprisonment.

(b) In addition to the penalties provided herein, any such person, firm, corporation or municipality shall also be liable to the City of Long Beach for the full cost of restoration of the damage. The court shall specify a reasonable time for completion of the restoration, which shall be carried out under the supervision of the city manager or his duly designated representative.

(Ord. No. 1585/86, § 1, 3-18-86)

Note: See the editor's note to § 13-125.

Sec. 13-125. Beach stabilization and erosion projects.

Pursuant to section 6-c of the General Municipal Law, the council of the City of Long Beach, New York, does hereby establish a reserve fund for various improvements to beach areas including, but not limited to, beach nourishment, jetty enhancement, dune replacement and construction, and the like, to be deposited in a separate bank account to be known as "City of Long Beach Reserve Fund for Beach Stabilization and Erosion Projects." Said account shall be funded in accordance with further actions of the council with moneys legally available for such purpose.

No expenditure shall be made from this fund, except in accordance with section 6-c of the General Municipal Law.

(Ord. No. 1812/94, §§ 1, 2, 1-4-94)

Editor's note: Ord. No. 1812/94, adopted Jan. 4, 1994, amended this Code by adding provisions designated by the editor as § 3-125. Since this ordinance was nonamendatory of this article, the penalty in § 3-125 does not apply; the general penalty in § 1-8 applies.

ARTICLE VIII. TELECOMMUNICATION TOWERS, ANTENNAS AND FACILITIES

Sec. 13-126. Purpose and intent.

The purpose of this law is to establish predictable and balanced regulations for the siting of telecommunication towers, antennas and facilities in order to accommodate their growth while protecting the public against any adverse impacts on aesthetic resources and the public safety and welfare. The city wants to accommodate the need for telecommunications towers, antennas and facilities while regulating their location and number, minimizing adverse visual impacts through proper design, siting and screening, avoiding potential physical damage to adjacent properties, and encouraging joint use of tower structures.

The law also seeks to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures, in order to further minimize adverse visual effects from telecommunications towers.

This law is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall it be used to unreasonably discriminated among providers of functionally equivalent services consistent with current federal regulations.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-127. Definitions.

(a) *Telecommunication tower.* A structure on which one (1) or more antenna will be located, that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, but excluding those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

(b) *Telecommunication antenna.* A system of electrical conductors that transmit or receive radio frequency waves.

(c) *Telecommunications facility.* Any or all of the physical elements of the central cell facility that contains all the receivers, transmitters, and other apparatus needed for cellular/pc's operation (also known as base transceiver station (BTS).

(d) *Accessory use.* An accessory use serves the principal use, is subordinate in area, extent or purpose to the principal use, and is located on the same lot as the principal use. Examples of such used include transmission equipment and storage sheds.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-128. Review authority.

(a) The zoning board of appeals is hereby authorized to review and approve, approve with modifications or disapprove special use permits for

telecommunication towers, antennas or facilities pursuant to this law. The zoning board of appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication towers, antennas or facilities, including the use of camouflage of the tower structure and/or antenna to reduce visual impact.

(b) Except as provided below, no telecommunication tower, antenna or facility shall hereafter be erected, moved, reconstructed, changed or altered and no existing structure shall be modified to serve as a telecommunication tower, antenna or facility, except after obtaining a special use permit in conformity with this article.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-129. General criteria.

(a) No special use permit relating to a telecommunications facility shall be authorized by the zoning board of appeals unless it finds that such facility:

(1) Is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities;

(2) Conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration and other federal agencies;

(3) Will be designed and constructed in a manner which minimizes visual impact to the extent practical; and

(4) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.

(b) Conflicts or inconsistent provisions. In the event of any conflict or inconsistency between the provisions of this section and the provisions of any other portion of applicable, regulation, ordinance or law, the more restrictive provisions shall control, except for tower height restrictions, which are governed by the provisions of this section.

(c) Compliance with state Environmental Quality Review Act. The requirements of this section shall be applied and administered in a manner consistent with the state Environmental Quality Review Act (SEQRA), and no action shall be taken under this section to issue a conditional use permit and no building permit shall be granted until the required review process has been completed.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-130. Exemptions.

(a) Antennas used solely for residential household television and radio reception.

(b) Satellite with television antennas erected and maintained in accordance with the provisions of sections 13-100, 13-101 and 13-102 of this Code.

(c) Telecommunication towers, antennas and facilities existing prior to the effective date of this article. However, all telecommunication towers, antennas and facilities shall be subject to subsections 13-141(b) and (c) hereafter.

(d) Telecommunication towers, antennas and facilities being placed on property owned by the city. For any property owned by the city all agreements shall be approved by the city council and shall address relevant issues such as safety, height, aesthetics, setbacks, co-location, etc.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-131. Co-location.

The shared use of existing telecommunications towers or other structures shall be preferred to the construction of new facilities. Any special use permit application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within an existing telecommunication facility or upon an existing structure within a reasonable distance, regardless of municipal boundaries, of the site. The applicant must demonstrate that the proposed telecommunication facility cannot be accommodated on existing telecommunication facilities due to one (1) or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of existing and approved telecommunication facilities or other structures, considering existing and planned use for those facilities;

(2) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;

(3) Existing or approved telecommunications facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;

(4) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures; and

(5) The property owner or owners of the existing telecommunication facility or other structure refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-132. Standards.

The following shall be required of an applicant when seeking a special use permit pursuant to this section.

(a) *Project participants:* Provide the names, addresses, phone and fax numbers of the following involved parties, as appropriate:

(1) The landowner of the project site to be purchased or leased;

(2) The service provider, corporate and point of contact (include the FCC license number and certificate of need as a public utility (as/if applicable));

(3) Engineering consultant(s);

(4) Legal representative(s); and

(5) Other authorized service providers proposing to co-locate on the tower now or in the near future.

Where co-location is proposed, provide the names, addresses and phone numbers of the current owner(s) of the tower, building or structure upon which the co-location was considered or is proposed.

(b) *Site plan and construction details:* Provide a detailed, labeled and to-scale site plan that includes the following information:

(1) Scale, north arrow, date and name of preparer;

(2) Project site boundaries (if part of larger parcel, include a map of the larger, parent parcel and the location of the area to be acquired or leased for the project);

(3) Abutting property owners, names and addresses;

(4) All bodies of water; wetlands and mean high water mark for larger water bodies on or adjoining the project site;

(5) Existing and proposed topographic contours at two-foot intervals in and within 200 feet of all proposed areas to be disturbed;

(6) All existing and proposed buildings, structures, roads, utilities, and driveways;

(7) Existing vegetation cover types and tree lines;

(8) The proposed limits of vegetation disturbance and/or clearing related to the proposed construction of the sire access, tower and accessory structures;

(9) All trees four (4) inches or greater in size to be removed;

(10) All proposed plantings; and

(11) All existing and proposed drainage and erosion control and stormwater management facilities.

For any new or improved access roads or driveways, provide a grading plan, centerline profile, and cross sections (every one hundred (100) feet showing proposed and existing contours at two-foot intervals) and identify the construction material(s) (e.g., gravel, asphalt).

(c) *Site access, construction and operation:* Describe the type, locations and size of any road and/or driveway providing existing and proposed access to the proposed tower site. Describe any proposed temporary or permanent improvements, including any proposed vegetation removal, site drainage and installation of impervious, paved surfaces and utilities.

(d) *Visual environmental assessment form (Visual EAF):* Provide a completed visual environmental assessment form (visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the city as identified in the visual EAF. The zoning board of appeals may

require submittal of a more detailed visual analysis based on the results of the visual EAF.

(e) *Permit fee:* There shall be a one thousand dollar ($1,000.00) application fee.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-133. Fall zones.

Telecommunication towers, antennas and facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that if they should fall, it will remain within the property boundaries and avoid habitable structures, public streets and utility lines.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-134. Setbacks.

Telecommunication towers, antennas and facilities shall comply with all existing setbacks within the affected zone. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities. Additional setbacks may be required by the zoning board to contain on-site substantially all icefall or debris from tower failure and/or to preserve privacy of adjoining residential and public property.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-135. Lighting.

Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Notwithstanding, an applicant may be compelled to add FAA-style and marking, if direct benefit to public safety. The board may choose the most appropriate lighting and marking plan from the options acceptable by the FAA at that location. That applicant must provide both standard and alternative lighting and marking plans for the board's review.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-136. Visibility and aesthetics.

(a) All telecommunication towers, antennas and facilities shall be sited to have the least practical visual effect on the environment.

(b) The maximum height for telecommunication towers permitted under this article, including any antennas or other devices extending above the tower, measured from the ground surface shall be one hundred fifty (150) feet. The height limitation may be waived by the zoning board when the antenna is mounted on an existing building or structure.

(c) The project shall be designed to blend with the natural and/or manmade surroundings to the maximum extent practicable.

(d) Structures offering slender silhouettes (i.e. monopoles are preferable to other structures). The zoning board may consider the type of structure being proposed

and the surrounding area.

(e) Minimum spacing between tower locations is one-quarter (1/4) mile.

(f) No building designated as a landmark pursuant to chapter 7, article XVI, landmark preservation, of this Code, shall be entitled to a permit.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-137. Vegetation and screening.

(a) Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four (4) inches in diameter shall take place prior to approval of the special use permit. Clear cutting of all tress in a single contiguous area shall be minimized to the extent possible.

(b) The zoning board may require appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, waterways, historic or scenic areas, or public roads.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-138. Access and parking.

(a) A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

(b) Equipment or vehicles shall not be stored on the facility site.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-139. Signage.

The use of any portion of a telecommunication facility for signs for promotional or advertising purposes, including but not limited to company name, phone numbers, banner, streamers and balloons is prohibited. The zoning board may require the installation of signage with safety information.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-140. Security.

(a) Towers, anchor points around guyed towers, and accessory structures shall each be surrounded by fencing not less than eight (8) feet in height.

(b) There shall be no permanent climbing pegs within fifteen (15) feet of the ground.

(c) Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site.

(d) A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public thoroughfare.

(e) The applicant shall obtain and maintain:

(i) Comprehensive general liability insurance in the minimum amount of one million dollars ($1,000,000.00) per occurrence and three million dollars ($3,000,000.00) in the aggregate; and

(ii) Any other insurance required by law.

Such insurance coverage may be with commercial insurers or under a program of self-insurance.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-141. Safety/engineering, inspections and fees.

(a) All telecommunication towers, antennas and facilities shall be built, operated and maintained to acceptable industry standards. Each application must contain a site plan for the facility containing the signature of an engineer licensed by the state.

(b) Annual structural inspection and reports shall be done at the expense of the applicant by a licensed professional engineer, or at any other time upon a determination of the building commissioner. Copies of the inspection report shall be submitted to the building department.

(c) The building department, upon receipt of the above inspection report, shall inspect said locations annually. The fee for each inspection will be one thousand two hundred dollars ($1,200.00).

(Ord. No. 1952/02, § 1, 4-16-02; Ord. No. 3007/16, § 1, 5/24/2016)

Sec. 13-142. Abandonment and removal.

At the time of submission of the application for a telecommunication tower, antenna or facility the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a telecommunication facility if such facility becomes technologically obsolete or cease to perform its originally intended function for more than six (6) consecutive months. Upon removal, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-143. Enforcement.

The violation of any provision of this article or the failure to comply therewith shall constitute a violation punishable by a fine which shall not exceed five thousand dollars ($5,000.00), or imprisonment not exceeding fifteen (15) days, or both such fine and imprisonment. Each day on which a violation continues shall constitute a separate

offense. It shall be the duty of the building commissioner to enforce the provisions of this article and any conditions imposed by the zoning board.

(Ord. No. 1952/02, § 1, 4-16-02)

Sec. 13-144. Severability.

If any word, phrase or part of this article shall be declared unconstitutional the same shall be severed and separated from the remainder of this article and said remainder shall continue in full force and effect.

(Ord. No. 1952/02, § 1, 4-16-02)

Chapter 14 LICENSES AND BUSINESS REGULATIONS*

***Charter references:** Office of consumer protection, § 29; authority to license and regulate businesses, § 74(4); licensing and conduct of bingo and similar games, § 270 et seq.

Cross references: Advertising and signs, Ch. 3; licensing of electricians, § 10-40 et seq.; taxicab licenses, § 24-45 et seq.; certificates of competency for plumbers, § 21-56 et seq.; taxicab driver licenses, § 24-58 et seq.; towing car licenses, § 24-91 et seq.

Art. I. In General, §§ 14-1--14-13
Art. II. Licensing Procedure Generally, §§ 14-14--14-48
Art. III. Auctioneers, §§ 14-49--14-78
Div. 1. Generally, §§ 14-49--14-57
Div. 2. Licenses, §§ 14-58--14-78
Art. IV. Coin-Operated Laundries, §§ 14-79--14-94
Art. V. Distress Sales and Similar Sales, §§ 14-95--14-112
Art. VI. Places of Public Entertainment, §§ 14-113--14-132
Art. VII. Carryout Bags, §§ 14-133--14-137
Art. VIII. Transient Merchants, Peddlers and Solicitors, §§ 14-177--14-210
Div. 1. Generally, §§ 14-177--14-188
Div. 2. Licenses, §§ 14-189--14-204
Div. 3. Charitable Solicitor Licenses, §§ 18-205--18-210
Art. IX. Parking Lots, §§ 14-211--14-220
Art. X. Hotels, Boarding and Rooming Houses, §§ 14-221--14-249
Art. XI. Access to Criminal History Records, §§ 14-250--14-259
Art. XII. Secondhand Dealers, §§ 14-260--14-279
Art. XIII. Garage, Yard and Tag Sales, §§ 14-280--14-299
Art. XIV. Bars, Taverns, Nightclubs and Other Establishments, §§ 14-300--14-309
Art. XV. Special Events, §§ 14-310--14-324
Art. XVI. Newsracks, §§ 14-325--14-336
Art. XVII. Athletic Events on the Ocean Beach Park, §§ 14-340--14-346

ARTICLE I. IN GENERAL

Sec. 14-1. Proprietor's name to be prominently displayed.

It shall be a condition of the granting of licenses under this chapter that the name of the proprietor shall be clearly indicated on the window of his place of business or, in any event, of a suitable sign which shall be open to the clear view of all persons transacting any business with the licensed business.

(Code 1957, § 5-110)

Sec. 14-2. Boardwalk premises to be protected from unlawful entry.

All Boardwalk premises licensed pursuant to this Code shall be adequately and firmly shuttered or otherwise closed from the Boardwalk entrance thereto in such a fashion as to prevent vandalism or entry therein. The shutters, doors or other means of closing of said premises when of a removable nature shall be constructed of frame, metal or both, and shall be painted in a color uniform with the adjacent property.

(Code 1957, § 5-105.13)

Sec. 14-3. Conduct of business on Memorial Day.

(a) Pursuant to the provisions of Section 86 of the General Municipal Law, all trades, manufacturers, agricultural or mechanical employments upon that day designated as Memorial Day, are hereby prohibited prior to the hour of 12:00 noon, except that when the same are works of necessity they may be performed on that day during prohibited hours in their usual and orderly manner so as not to interfere with the observance of Memorial Day.

(b) All manner of public selling or offering for sale of any property upon the day designated as Memorial Day, prior to the hour of 12:00 noon, is prohibited except as follows:

(1) Meals and articles of food may be sold, served, supplied and delivered at any time before 10:00 a.m.

(2) Prepared tobacco, bread, milk, eggs, ice, soda water, alcoholic beverages, fruit, flowers, confectionery, souvenirs, newspapers, gasoline, oil, tires, drugs, medicines and surgical instruments may be sold and may be delivered at any time of the day.

(3) Meals may be sold, to be eaten on premises where sold, at any time of the day.

(c) A violation of this section shall be punishable by a fine of not more than two hundred fifty dollars ($250.00), or by imprisonment of not more than fifteen (15) days, or by both such fine and imprisonment.

(Code 1957, §§ 5-114--5-114.2; Ord. No. 614, §§ 1, 2, 5-20-58; Ord. No. 1133/72, § 1, 7-11-72)

Secs. 14-4--14-13. Reserved.

ARTICLE II. LICENSING PROCEDURE GENERALLY

Sec. 14-14. When required.

It shall be unlawful for any person to engage in or carry on any business, trade or calling in the city, or to aid or assist as an employee, clerk or otherwise in the carrying on of a business, or to use any wagon, vehicle, stand, store, place or thing, or sell or offer for sale any goods or things unless a license required by this Code or other ordinance of the city shall have been first obtained.

(Code 1957, § 5-101)

Sec. 14-15. Occupational licenses and fees generally.

In addition to any other occupation or business required by this Code or other ordinance of the city to be licensed, the following occupations or businesses shall be licensed pursuant to this article, and the fees prescribed for the license by this section shall be paid:

A

AMBULANCE AND AMBULETTE SERVICE: Per vehicle . . . $120.00

AUCTIONEERS . . .$340.00

AUTO BODY AND MACHINE REPAIRS . . . $120.00

AUTOMOTIVE EQUIPMENT . . . $120.00

B

BAKERS . . . $145.00

BAR OR TAVERN (no food served) . . .$200.00

BARBERSHOPS AND BEAUTY PARLORS . . . $120.00

BICYCLES: Sales, rental and/or repairs . . . $145.00

BUTCHERS . . . $145.00

C

CAMERAS AND SUPPLIES . . . $120.00

CAR SALES: New and used . . . $340.00

CATERERS . . . $200.00

CONTRACTORS:

General . . . $240.00

Demolition and excavation . . . $240.00

Carting / Refuse compactors . . . $240.00

Home improvement . . . $180.00

HVAC contractors . . . $180.00

All other residential contractors . . . $180.00

All other commercial contractors . . . $240.00

D

DAIRIES AND MILK DEALERS . . . $265.00

DANCE STUDIOS . . . $120.00

DELICATESSEN . . . $175.00

DRIVING SCHOOLS . . . $120.00

DRY CLEANERS . . . $145.00

E

ELECTROLYSIS TECHNICIANS . . . $120.00

ELECTRONICS OR APPLIANCE STORES . . . $145.00

EMPLOYMENT AGENCIES . . . $145.00

EXTERMINATORS . . . $170.00

F

FIRE EQUIPMENT . . . $170.00

FISH MARKETS . . . $145.00

FISHING STATIONS . . . $120.00

FLOWER SHOPS . . . $145.00

FRUITS AND VEGETABLES, only . . . $120.00

FUEL OIL:

Burner service . . . $180.00

For each extra truck . . . $35.00

FUEL OIL:

Delivery . . . $240.00

For each extra truck . . . $35.00

FURNITURE (retail or used) and HOME FURNISHINGS . . . $200.00

FURRIERS . . . $200.00

Sec. 14-15. Occupational licenses and fees generally.

G

GARAGES, GASOLINE AND SERVICE STATIONS . . . $175.00

GARDENERS . . . $180.00

GARDEN SUPPLY . . . $120.00

GIFT AND BOUTIQUE SHOPS . . . $120.00

GLAZIERS . . . $120.00

GRINDERS: Per vehicle . . . $120.00

H

HARDWARE STORES . . . $175.00

HEALTH OR FITNESS CLUB OR SPA:

Up to 2,500 square feet . . . $200.00

2,500 to 5,000 square feet . . . $395.00

Over 5,000 square feet . . . $720.00

HOSPITAL & SURGICAL SUPPLIES:Including rehabilitation equipment . . . $160.00

HOTELS:

Per room . . . $35.00

Maximum charge . . . $5,400.00

I

ICE CREAM DISTRIBUTORS . . . $420.00

Each vehicle . . . $240.00

ICE CREAM FOUNTAIN AND CONFECTIONERY . . . $145.00

J

JEWELERS . . . $120.00

JOBBERS AND WHOLESALERS . . . $130.00

L

LAUNDRIES AND LAUNDERETTES . . . $145.00

LIQUOR STORES . . . $145.00

LOCKSMITHS . . . $130.00

Sec. 14-15. Occupational licenses and fees generally.

LUMBERYARDS:

Lumber . . . $130.00

Hardware . . . $130.00

LUNCHEONETTES . . . $175.00

M

MANUFACTURING AND WAREHOUSES:

Up to 2,500 square feet . . . $175.00

2,500 to 5,000 square feet . . . $340.00

Over 5,000 square feet . . . $690.00

MARKETS AND SUPERMARKETS: Including DRUGSTORESAND SUPERDRUGS:

Under 2,500 square feet . . . $265.00

2,500 to 5,000 square feet . . . $595.00

Over 5,000 square feet . . . $1050.00

MASSEURS, each . . . $145.00

MOVIE THEATRES:

Under 1,000 seats . . . $540.00

1,000 seats and over . . . $1045.00

MOVING, STORAGE & PACKAGE DELIVERY SERVICE: Per vehicle . . . $120.00

MUSIC SHOPS . . . $120.00

N

NAIL SALON . . . $145.00

NEWS STANDS . . . $185.00

NURSING HOMES:

Per room . . . $35.00

Maximum charge . . .$5,400.00

O

OFFICE . . . $145.00

P

PAINT AND WALLPAPER SHOPS . . . $120.00

PARKING LOTS (That do not charge a fee for parking) . . . $185.00

PARKING LOTS (That do charge a fee for parking: hourly, daily, weekly, monthly, or yearly fee, or any derivative thereof) . . . $50.00 per space

PET GROOMING:

Storefront . . . $145.00

Mobile (per vehicle) . . . $145.00

PHOTOGRAPHY . . . $120.00

PRINTING . . . $120.00

R

REFRESHMENT STANDS AND SNACK BARS . . . $145.00

RESTAURANTS:

No liquor . . . $145.00

With service bar . . . $265.00

With bar with stools . . . $395.00

Drive-in . . . $330.00

S

SHOE REPAIR . . . $120.00

SURF SHOP . . . $145.00

T

TAILOR . . . $145.00

TAXI COOPERATIVES: Per group . . . $120.00

TELEPHONE ANSWERING SERVICES . . . $120.00

TRAVEL AGENCY . . . $120.00

V

VARIETY AND COMBINATION HARD GOOD STORES . . . $210.00

W

Sec. 14-15. Occupational licenses and fees generally.

WASTE FAT COLLECTORS . . . $180.00

WEARING APPAREL . . . $120.00

Any person engaged in a business not specifically defined herein shall pay a mercantile license fee of one hundred thirty dollars ($130.00). Where any premises are used for more than one of the businesses required to be licensed, a fee shall be paid for the primary business as established herein plus the appropriate fee for each additional category.

Any licensee conducting business from a vehicle shall affix a mercantile license to each vehicle used. Mercantile licenses may be obtained upon payment of the license fee, from the city clerk, and shall be permanently attached to the rear of each vehicle by licensee for inspection purposes.

The fees for all licenses issued for two (2) years shall be double those fees listed above.

(Code 1957, § 5-105.2; Ord. No. 379-Z, § 1, 6-2-59; Ord. No. 379-A.1, § 1, 10-6-59; Ord. No. 379-A.2, §§ 1, 3--5, 7-5-60; Ord. No. 379-A.4, § 1, 3-6-62; Ord. No. 698, §§ 1, 2, 2-4-64; Ord. No. 1029/71, §§ 1, 3, 3-2-71; Ord. No. 1032/71, § 2, 4-6-71; Ord. No. 1101/71, § 1, 12-7-71; Ord. No. 1107/71, § 1, 12-21-71; Ord. No. 1108/72, § 2, 1-11-72; Ord. No. 1125/72, § 1, 6-6-72; Ord. No. 1135/72, § 1, 7-11-72; Ord. No. 1189/73, § 2, 12-18-73; Ord. No. 1260/74, § 2, 11-26-74; Ord. No. 1280/75, § 1, 5-29-75; Ord. No. 1306/76, § 1, 1-13-76; Ord. No. 1325/76, § 1, 8-3-76; Ord. No. 1370/78, § 1, 6-14-78; Ord. No. 1402/79, § 1, 9-5-79; Ord. No. 1536/84, § 1, 5-1-84; Ord. No. 1555/84, § 1, 10-16-84; Ord. No. 1573/85, § 1, 10-1-85; Ord. No. 1693/89, § 1, 4-4-89; Ord. No. 1861/96, § 1, 8-20-96; Ord. No. 1863/96, § 1, 8-20-96; Ord. No. 1922/99, § 1, 8-4-99; Ord. No. 1999/05, § 1, 5-3-05); Ord. No. 2066/12, § 1, 3-2-2012; Ord. No. 2090/14, § 1 ,6/17/2014; Ord. No. 3007/16, § 1, 5-24-2016; Ord. No. 3046/21/16, § 1, 02-16-2021; Ord. No. 3049/21, 05-04-2021)

Sec. 14-16. Coin-operated devices.

(a) The following coin, bill or card operated devices shall be licensed as provided in this article, with the designated fees paid for the license:

(1) Marble, music or photograph machines; automatic coin, bill or card devices of amusement or games of skill, music or photography, each . . . $110.00

(2) Distributors who sell, lease, rent or operate automatic coin, bill or card devices of amusement or games of skill, or music or photography . . . 270.00

Plus, each machine . . . 110.00

(3) Distributors who sell, lease, rent or operate automatic coin, bill or card operated devices, vending gum or other merchandise, including scales . . . 75.00

Plus, each machine . . . 7.00

(4) Automatic coin, bill or card devices vending gum or other merchandise

only, each . . . 7.00

(4A) Automatic coin, bill or card operated devices for the vending of newspapers or other periodicals, each . . . 17.00

(5) Automatic coin, bill or card operated weighing devices, each . . . 7.00

(6) All automatic coin, bill or card operated devices other than specifically mentioned in this section, each . . . 7.00

(b) Arcades or sport centers, the primary or principal business of which is the operation of automatic coin, bill or card devices and shall be charged a license fee of two hundred twenty-five dollars ($225.00) for the first ten (10) or less machines or games, and twenty dollars ($20.00) for each additional machine or game.

(c) The person operating or having control of the premises within which each of the coin, bill or card operated devices may be located shall be responsible for compliance with the requirements of this section for licensing of the enumerated automatic coin, bill or card devices.

(d) It shall be lawful to operate or maintain any commercial premises containing four (4) or less pinball machines, video machines, electronic machines or games, or other coin, bill or card operated amusement devices or machines, only if the said operation and maintenance are secondary, incidental or ancillary to some other primary or principal business.

It shall be unlawful to operate or maintain any premises containing more than four (4) pinball machines, video machines, electronic machines or games, or other coin-operated amusement devices or machines, unless such premises front on the boardwalk.

(Code 1957, §§ 5-105.4, 5-105.6; Ord. No. 809, § 1, 8-2-66; Ord. No. 1101/71, § 2, 12-7-71; Ord. No. 1125/72, § 2, 6-6-72; Ord. No. 1260/74, § 2, 11-26-74; Ord. No. 1447/81, § 1, 4-21-81; Ord. No. 1477/82, §§ 1, 2, 6-15-82; Ord. No. 1555/84, § 2, 10-16-84; Ord. No. 1567/85, § 1, 7-2-85; Ord. No. 1595/86, § 1, 6-3-86; Ord. No. 1661/88, § 1, 4-19-88; Ord. No. 1861/96, § 2, 8-20-96; Ord. No. 2090/14, § 1 ,6/17/2014)

Sec. 14-17. Reserved.

Editor's note: Ord. No. 1861/96, § 3, adopted August 20, 1996, amended the Code by repealing § 14-17 in its entirety. Former § 14-17 pertained to bathhouses, and derived from the Code of 1957, §§ 5-105.7, 7-114(b), and 7-118(a); and Ord. No. 1260/74, adopted November 26, 1974.

Sec. 14-18. Restrictions on the licensing and operation of mechanical amusements.

(a) Any person operating a mechanical ride, such as a scooter, merry-go-round, whip or any other device upon which the public is carried, shall, before the license required by this chapter is granted, secure public liability insurance, in a sum of at least one million dollars ($1,000,000.00) for one (1) person and three million dollars ($3,000,000.00) for more than one (1).

(b) If, in the operation of a business described in subsection (a), music or other loudspeaking devices are employed, before the license is issued, the owner of the premises shall give evidence that the building or premises are properly enclosed, so as not to constitute such premises a public nuisance.

(c) Anything in this chapter to the contrary notwithstanding, the city clerk shall not issue a license to any person to operate a mechanical ride such as a scooter, merry-go-round, whip or other device upon which the public is carried within six hundred (600) feet of any house of worship.

(d) The hours for the operation of the rides described in subsection (a) shall be between the hours of 10:00 a.m. and 12:00 midnight.

(Code 1957, § 5-105.3; Ord. No. 1861, § 4, 8-20-96)

Sec. 14-19. Reserved.

Editor's note: Ord. No. 1861/96, § 5, adopted August 20, 1996, amended the Code by repealing § 14-19 in its entirety. Former § 14-19 pertained to premises ineligible for a rooming or lodging house license, and derived from the Code of 1957, § 5-105.12.

Sec. 14-20. Employees of certain businesses to be licensed.

(a) All employees of such nightclubs, supper clubs, billiard and pool rooms, bowling alleys, places of amusement or entertainment, games, concessions, boxing arenas, nursing homes, hotels, including places occupied by senior citizens, restaurants, and public places of any description in which the aforementioned businesses or activities are conducted, shall be licensed before any such employee is permitted to work in any establishment affected by this article.

(b) The provisions of subsection (a) shall not apply to theaters which are regulated by this Code.

(c) All license fees shall be for the full period of three (3) years, and the fee for same shall be four dollars and fifty cents ($4.50).

(d) Before any license required by this section shall be granted, the applicant therefor or, if the applicant is a corporation, the president or an officer thereof, shall be required to supply the police department with such information for the purpose of identification and investigation and regulation as may be required, including fingerprinting.

(e) It shall be unlawful to hire or employ any person who shall not first have obtained a license as required pursuant to the provisions of this article. A separate offense shall be deemed committed with respect to each unlicensed employee hired or employed.

(Code 1957, §§ 5-107.1--5-107.3; Ord. No. 721, § 1, 7-7-64; Ord. No. 738, § 1, 2-2-65; Ord. No. 819, § 1, 11-1-66; Ord. No. 1130/72, § 1, 6-15-72; Ord. No. 1214/74, § 1, 3-5-74; Ord. No. 1260/74, § 2, 11-26-74)

Sec. 14-21. Reserved.

Editor's note: Ord. No. 1861/96, § 6, adopted August 20, 1996, amended the Code by

repealing § 14-21 in its entirety. Former § 14-21 pertained to licenses for refuse collectors, and derived from the Code of 1957, § 5-105.5; Ord. No. 460-O, adopted September 6, 1960; Ord. No. 1108/72, adopted January 11, 1972; Ord. No. 1125/72, adopted June 6, 1972; and Ord. No. 1260/74, adopted November 26, 1974.

Sec. 14-22. Licensing of multiple businesses on one premises.

Where any premises is used for more than one (1) of the businesses required to be licensed under one or more provisions of this Code, a separate license shall be obtained for each such business being conducted therein.

(Code 1957, § 5-106.8; Ord. No. 379-A.2, § 8, 7-5-60; Ord. No. 379-A.3, § 1, 8-2-60)

Sec. 14-23. Application.

(a) Application for a license pursuant to this article shall be made to the city clerk, who shall issue the licenses authorized.

(b) Each application for a license to be issued pursuant to this article shall specify by name the person to whom it shall be issued; the residence of the applicant; information for the purpose of identification of the applicant; the applicant's business experience in the city; the applicant's interest in the business to be licensed; the names, business and residence addresses of three (3) persons who will vouch for the applicant; the business, trade or calling for which the license is to be granted; the location at which the business, trade or calling shall be carried on; the period of the lease on the business premises; whether the applicant has ever had a license revoked by the city or has ever been convicted of a crime and the date with respect thereto; and such other information as may be required by the city clerk.

(Code 1957, §§ 5-103.1, 5-103.2; Ord. No. 379-A.2, § 2, 7-5-60)

Sec. 14-24. Payment of fee prerequisite to license.

No license shall be issued pursuant to this article until the applicant shall have first paid to the city clerk the appropriate license fee therefor.

(Code 1957, §§ 5-103.1, 5-105.1; Ord. No. 379-A.2, § 2, 7-5-60; Ord. No. 1032/71, § 1, 4-6-71)

Sec. 14-25. Proof of payment of fees or charges due to the city.

Anything to the contrary contained in this article or any other provision of this Code notwithstanding, in the event applicant acknowledges that it is his obligation to pay the sanitation charges and has agreed to do so as a prerequisite to receiving the mercantile license, the city clerk shall not issue any license under this article until the applicant for the license shall produce proof of payment to the city of sanitation charges and fees which are due and payable for the premises and/or part thereof occupied and/or to be occupied by the applicant, as well as any and all other fees or charges of the city to which the applicant may be subject.

(Code 1957, § 5-106.7; Ord. No. 1813/94, § 1, 1-4-94; Ord. No. 1861/96, § 7, 8-20-96)

Sec. 14-26. Certificate of compliance required.

No license or renewal thereof shall be granted under this article until the commissioner of buildings and property conservation of the city and any other city department or agency having jurisdiction thereof certifies in writing to the city clerk that the applicant has complied with all of the laws, ordinances, codes, rules, orders, and regulations respecting the protection of life and property relating to the place of business to be licensed.

(Code 1957, § 5-103.6; Ord. No. 1189-73, § 1, 12-18-73; Ord. No. 2015/07, § 1, 2-20-07)

Sec. 14-27. When certificates of electrical board and board of fire commissioners required.

No license shall be granted under this article for any theater, scenic theater, motion picture show or like exhibition or amusement until the electrical board of the city and the board of fire commissioners of the city certify in writing to the city clerk that the applicant therefor has complied with all of the regulations respecting the protection of life and property relating to the place of business to be licensed.

(Code 1957, § 5-103.5)

Sec. 14-28. Restriction on location of business premises.

The place of business of the business, trade or calling to be licensed pursuant to this Code or other ordinance of the city shall be located within the business zone of the city as the zone is defined in the zoning ordinance of the city, as amended from time to time. It shall be unlawful for any person to conduct any business licensed under this Code or other ordinance of the city from any house or dwelling located in any of the residence districts as defined in the zoning ordinance of the city, and a failure to comply with the zoning ordinance of the city shall constitute a violation of this article and the license granted shall be immediately revoked therefor.

(Code 1957, § 5-102)

Sec. 14-29. Denial of license.

No license sought pursuant to this article shall be refused except for good cause, and the city clerk shall, in the event of such refusal and within ten (10) days thereafter, notify the city manager in writing thereof.

(Code 1957, § 5-103.3; Ord. No. 1033/71, § 1, 4-6-71)

Sec. 14-30. Appeal from denial or failure to act on license application.

Any applicant for a license pursuant to the provisions of this article whose license is denied or whose application is not acted upon within thirty (30) days after the filing thereof with the city clerk, may appeal to any court of record having competent jurisdiction.

(Code 1957, § 5-103.4; Ord. No. 1033/71, § 2, 4-6-71; Ord. No. 1861/96, § 8, 8-20-96)

Sec. 14-31. License year.

Except as concerns contractors and electricians, a license issued pursuant to this article to all business establishments in the city shall be for one (1) year beginning the first day of December in each year, and shall expire on the last day of November in the following year.

Licenses issued to all contractors, except electricians, shall expire two (2) years from the last day of the month in which the license was issued.

Licenses issued to electricians shall be for two (2) years beginning the first day of December and shall expire on the last day of November two (2) years thereafter.

(Code 1957, § 5-105.1; Ord. No. 1032/71, § 1, 4-6-71; Ord. No. 1358/78, § 1, 4-4-78; Ord. No. 1922/99, § 1, 8-4-99)

Sec. 14-32. Transferability.

No transfer of a license issued pursuant to this article as to location or ownership shall be granted except after a new application therefor by the proposed transferee or the original applicant, and the city clerk shall proceed in the same manner in respect thereto as for an original license. If the application for a transfer is granted, such action shall be endorsed upon the license by the city clerk.

(Code 1957, § 5-104)

Sec. 14-33. Display of license.

(a) The certificate of license issued pursuant to this article shall be conspicuously displayed upon the premises where the business is conducted.

(b) Contractors shall be issued by the city clerk a vehicle decal for each vehicle identified by the licensee as a vehicle which will be used in connection with the licensed activities. Such vehicle decals shall be conspicuously displayed in the vehicle(s) used in connection with the licensed activities during the term of the license, and shall be removed upon expiration, suspension or revocation of said license. The first two (2) decals will be included in the fee for the license and a fee of twelve dollars ($12.00) will be charged for each additional or replacement decal. Failure to display said decal shall be punishable by a minimum fine of one hundred dollars ($100.00).

(Code 1957, § 5-109; Ord. No. 2022/07, § 1, 11-7-07; Ord. No. 3007/16, § 1, 5/24/2016)

Sec. 14-34. Violations as grounds for suspension or revocation; investigation; authority of the city council.

(a) Whenever a claim is made in writing to the city clerk concerning a licensee under this chapter, and it shall appear that the licensee has violated any of the provisions of this chapter or has failed to fulfill his obligations in connection with the business licensed pursuant to this article, the city clerk is authorized to investigate the claim, violation or failure and report the result of his findings to the city council and the city council may, upon such report, suspend or revoke any license issued pursuant to this article.

(b) Any license issued under the provisions of this article shall be revoked upon the conviction of the licensee of a felony or for any violation of the provisions of this article or of any other article or Nassau County Public Health Ordinances, or Part 14 of the New York State Sanitary Code, pertaining to the conduct or operation of the business for which such license was issued.

(Code 1957, §§ 5-111.1, 5-111.2(a); Ord. No. 1162/73, §§ 1, 2, 3-7-73)

Sec. 14-35. Suspension of license pending revocation proceedings.

Whenever a summons or notice has been served upon a licensee, licensed hereunder, alleging a violation of this article, or any other article hereof, or of the Penal Law of the State of New York, or violation of the Nassau County Public Health Ordinances, or Part 14 of the New York State Sanitary Code, in connection with the operation of the business licensed hereunder, the city manager shall designate a hearing officer who shall hold a hearing at the request of the city manager and shall make a written report which may request a temporary suspension of the license issued to said licensee. Such written report shall be transmitted immediately to the city manager, who in his discretion shall approve or disapprove the recommendation of such suspension. Immediately upon approving or disapproving the recommendation, which approval or disapproval shall be over the signature of the city manager, the city manager shall transmit such written report to the city clerk. If the recommendation for suspension is approved, the city clerk shall immediately notify the licensee that such license has been suspended and such suspension shall remain effective until a disposition is made by a court of competent jurisdiction.

(Code 1957, § 5-111.2; Ord. No. 1162/73, § 1, 3-7-73)

Sec. 14-36. License fees not refundable upon revocation.

When a license issued pursuant to this article shall be revoked, no refund of the unearned portion of the license fee shall be made.

(Code 1957, § 5-111.3; Ord. No. 1043/71, § 1, 5-4-71)

Sec. 14-37. Notice of revocation.

Notice of the revocation of a license issued pursuant to this article and the reason therefor shall be in writing, and shall be served by the city clerk upon the person named in the license application or by mailing the same to the address given in such application.

(Code 1957, § 5-111.3; Ord. No. 1043/71, § 1, 5-4-71)

Sec. 14-38. Penalty for failure to obtain a license.

Any individual, agent or employee thereof, who shall establish, keep, maintain or operate any business without a license required by this article, or shall violate any of the provisions of this article or who having had their license revoked shall continue to operate the business or activities for which a license is required, shall be deemed to be guilty of a violation and any person who shall be convicted of a violation as hereby defined, shall be subject to a fine or penalty of not more than two hundred fifty dollars

($250.00) or both imprisonment and fine and each day on which the violation is continued shall constitute a separate offense. It shall not be a defense to a prosecution for a violation of any of the provisions of this Code relating to places of public entertainment that the premises where the violation is alleged to have occurred were conducted during the prohibited hours as a private club if at the other time such premises were conducted as a public place of business for profit.

(Code 1957, § 5-113; Ord. No. 3052/21, 07-06-2021)

Sec. 14-39. Late Fees.

Any licensee who fails to properly file his application for renewal prior to its expiration shall be required to pay a late fee of twenty-five dollars ($25.00).

(Ord. No. 2066/12, § 1, 3/20/2012)

Secs. 14-40--14-48. Reserved.

ARTICLE III. AUCTIONEERS

DIVISION 1. GENERALLY

Sec. 14-49. Defined.

As used in this article, the word "auctioneer" shall mean and include any person selling or offering for sale for another or for himself at public auction any goods, wares, merchandise, real estate or personal property of any description, except as provided in this article.

(Code 1957, § 5-401)

Sec. 14-50. Improper dealing.

No auctioneer shall:

(a) Make any false representation as to the character, quality, condition, previous history, value or ownership of any property offered for sale.

(b) Substitute any other article for the article sold to the bidder.

(c) Bid in any property offered for sale by himself, and no person shall act as an accomplice or "capper" for the purpose of making mock bids at any auction.

(d) Employ a bellman, crier, instrument of music or means of attracting the attention of passersby, other than a sign or flag, which shall bear the number of the license issued pursuant to this article.

(e) Conduct any auction sale for a transient, merchant or other person who has not procured a license required by this article, or whose license has expired or been revoked.

(f) Refuse to exhibit his license to any police officer upon demand at the place where an auction is being conducted.

(g) Receive for sale by auction or sell by auction any goods, wares or merchandise from or to any minor, knowing him to be a minor.

(Code 1957, § 5-410)

Sec. 14-51. Records.

(a) Each auctioneer shall, upon the receipt or acceptance by him of any goods for the purpose of sale at auction, and before offering the goods or any part thereof for sale at auction, write or cause to be written in a book to be kept by him for the purpose, the name and address of the person who employed him to sell the goods at auction; the name and address of the person for whose benefit, behalf or account, the goods are to be sold at auction; the name and address of the person from whom the auctioneer received or accepted the goods; the name and address of the person who was the owner, the authorized agent of the owner or

the consignor of the goods immediately prior to the receipt or acceptance for the purpose of sale at auction of the goods by the auctioneer; the location, with the street and number, if any, of the goods immediately prior to the receipt or acceptance of the goods by such auctioneer for the purpose of sale at auction; the date of the receipt or acceptance by the auctioneer of the goods for the purpose of sale at auction; the place, with the street and number, if any, in which the goods are to be held, kept or stored until sold or offered for sale at auction; the place, with street and number, if any, in which the goods are to be sold or offered for sale at auction; a description of the goods, the quantity thereof and the distinctive marks thereon, if any; and the terms and conditions upon which the auctioneer receives or accepts the goods for sale at auction.

(b) The expression "goods" as used in this section signifies any goods, wares, work of art, commodity, compound or thing, chattel, merchandise or personal property which may be lawfully kept or offered for sale, and sold or to be sold for the benefit of the owners, insurers or for the account of whom it may concern, or goods sold by virtue of judicial decree. Nothing in this section shall apply to the sale of real property at auction.

(c) The record book required by subsection (a) and the entries therein, shall at all reasonable times be open to the inspection of the city manager, the commissioner of public safety and the district attorney, and any person who shall be duly authorized in writing for that purpose by any or either of them and who shall exhibit written authorization therefor to the auctioneer.

(Code 1957, §§ 5-411, 5-412)

Sec. 14-52. Penalty for violation of article; forfeiture of bond.

Any person who, himself or by his clerk, agent or employee, shall conduct, engage in, carry on or represent or announce himself as conducting, engaging in or carrying on the business of an auctioneer, or shall violate any of the provisions of this article, or who, having had his license issued pursuant to this article revoked, shall continue to engage in or carry on the business of an auctioneer, shall, upon conviction thereof be subject to a fine of not less than one hundred dollars ($100.00) or more than two hundred fifty dollars ($250.00), or to imprisonment for not more than fifteen (15) days, or to both such fine and imprisonment, and each day on which a violation continues shall constitute a separate offense. In addition to the penalty imposed, the license of the person violating the same shall be cancelled or revoked, and the bond given for the license shall be forfeited. Upon forfeiture of the bond the amount of the bond shall thereupon become due and payable to the city and the amount thereof may be recovered in a civil action based upon the forfeiture.

(Code 1957, § 5-415; Ord. No. 1133/72, § 1, 7-11-72)

Secs. 14-53--14-57. Reserved.

DIVISION 2. LICENSES

Sec. 14-58. When required; waiver of fee in certain cases.

(a) It shall be unlawful for any person to conduct or to represent or circulate or place before the public any announcement that he conducts the business of an auctioneer without first having obtained and paid for and having in full force and effect a license therefor as provided in this division.

(b) Any person conducting auction sales in the city pursuant to a judicial order, as well as by executors, or administrators, by trustees under deed of assignment, by lessee or by public officer, in the manner prescribed by law, shall be required to secure a license pursuant to the provisions of this division, but in such cases, there shall be no license fee.

(Code 1957, §§ 5-402, 5-403)

Sec. 14-59. Application.

Each person desiring to procure a license required by this division shall file with the city clerk a written application upon a blank form prepared and furnished by the city. The application shall contain the name, business and residence addresses of the applicant; the length of time the applicant has resided in the city; his previous employment and where; whether married or single; whether he has ever been convicted of a misdemeanor or felony, and, if so, what offense, when and in what court; whether he has either alone or with someone else ever engaged in the business of an auctioneer, and, if so, when and where; and the length of time for which the license is desired. The application shall be signed and acknowledged before a notary public or other official authorized to administer oaths in the city.

(Code 1957, § 5-404)

Sec. 14-60. Persons ineligible for license.

A license required by this division shall not be granted to any person who has been convicted of violating the laws of the state or of the city relating to auctions and auctioneers or for fraud or deceit in the conduct of auctions.

(Code 1957, § 5-413)

Sec. 14-61. Investigation of applicant by police department.

When an application for a license required by this division is filed, the city clerk shall cause an investigation to be made by the police department to ascertain whether the applicant is of good character and repute. The police investigator shall furnish to the city clerk in writing the information derived from the investigation, accompanied by a recommendation as to whether a license should be granted or refused.

(Code 1957, § 5-405)

Sec. 14-62. Bond.

The application for a license required by this division shall be accompanied by a surety company bond to the city in the penal sum of two thousand dollars ($2,000.00), which surety company shall be duly licensed to do business in the State of New York, and which bond shall be conditioned that the applicant will faithfully perform his duties as such auctioneer as required by law and the provisions of this Code, and will render such accounts and pay such sums as may be required of him by law.

(Code 1957, § 5-406; Ord. No. 1622/87, § 1, 4-21-87)

Sec. 14-63. Issuance or denial of license.

(a) Upon the filing of the application for a license required by this division, and the bond and information required by this division, the city clerk may, upon his approval of such application and the payment to the city of the license fee required by this division, issue to the applicant a license. No license shall be refused except for a specific reason and for the protection of the public safety, good order and morals.

(b) No applicant for a license required by this division and whose application has been denied shall make further application until a period of at least six (6) months shall have elapsed since the last previous rejection, unless he can show that the reason for the rejection no longer exists.

(Code 1957, § 5-407)

Sec. 14-64. Contents of license.

All licenses issued pursuant to this division shall be numbered in the order in which they are issued and shall state clearly the dates of issuance and expiration of the license, the fee paid and the name and business address of the licensee.

(Code 1957, § 5-407)

Sec. 14-65. Scope of license.

No person having a license granted under this division shall delegate his power to any clerk, partner or person; but the privilege given shall be personal to the person named in the license and shall be exercised by him alone.

(Code 1957, § 5-414)

Sec. 14-66. Transferability.

No license issued pursuant to this article shall be used by any person other than the original licensee and any holder of a license who permits it to be used by another person, and any person who uses a license granted to another pursuant to this division shall be guilty of a violation of this article.

(Code 1957, § 5-408)

Sec. 14-67. Lost or destroyed licenses.

Whenever a license issued pursuant to this division shall be lost or destroyed without fault on the part of the licensee, a duplicate license in lieu thereof under the original application and bond may be issued by the city clerk in his discretion, upon the filing with him of an affidavit by the licensee, setting forth the circumstances of the loss and what, if any search has been made for its recovery. No person shall destroy, deface or injure a license in any manner, or change the name, numbers or dates thereon.

(Code 1957, § 5-408)

Sec. 14-68. Revocation of license.

The city council may at any time for such cause as it, upon investigation, deems sufficient, revoke any license granted under the provisions of this division. Whenever any license shall be so revoked, no refund of any unearned portion of the license fee shall be made, and no license shall be granted to any person whose license has been revoked in the discretion of the city council within a period of one (1) year from the date of such revocation. Notice of revocation and the reason or reasons therefor in writing shall be served by the city council upon the person named in the application by mailing it to the address given in the application and upon filing a copy of the notice with the city clerk.

(Code 1957, § 5-409)

Secs. 14-69--14-78. Reserved.

ARTICLE IV. COIN-OPERATED LAUNDRIES

Sec. 14-79. Defined.

Whenever used in this article, the term "coin-operated laundry" shall mean and include any place, whether self-service or otherwise, maintained for the general public, for the purpose of washing, drying, cleaning, starching or ironing wearing apparel, household linens or other fabrics, whether by automatic or coin-operated laundry or dry cleaning machinery.

(Code 1957, § 5-602; Ord. No. 643, § 1, 2-6-62)

Sec. 14-80. Legislative findings.

It is hereby declared and found that there has recently developed within the laundry and dry cleaning industry a new type of operation employing automatic and coin-operated laundry and dry cleaning machinery which is open to, and patronized by, large numbers of persons. This operation is determined to be a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safeguarding the public against the dangers inherent in the automatic operation of mechanical devices in open public places at all times of the day and night. These hazards have been proven by experience to include falls on wet and soapy floors, electrical shocks, accidents caused by mechanical defects and misuse of machinery by children, scalding, noxious fumes and a crime rate increase caused by lonely conditions in unattended premises at late hours. This article shall be construed to provide the measure of supervision and control intended as nearly as possible.

(Code 1957, § 5-601; Ord. No. 643, § 1, 2-6-62)

Sec. 14-81. Facilities exempt from this article.

The provisions of this article shall not apply to any room, rooms or portion thereof located in an apartment house, hotel or other dwelling in which domestic laundry work is done by or for the occupants of such building exclusively.

(Code 1957, § 5-603; Ord. No. 643, § 1, 2-6-62)

Sec. 14-82. Closing hours.

All automatic or coin-operated laundries and dry cleaning establishments shall close between the hours of 12:00 midnight to 6:00 a.m. of each day.

(Code 1957, § 5-604(a); Ord. No. 643, § 1, 2-6-62)

Sec. 14-83. Attendant.

All automatic or coin-operated laundries and dry cleaning establishments shall be required to have on the premises an attendant who is familiar with the operation of the machinery in use in the premises from 6:00 p.m. until closing.

(Code 1957, § 5-604(b); Ord. No. 643, § 1, 2-6-62)

Sec. 14-84. Penalty for violation of article.

Any person who shall violate any of the provisions of this article shall be subject to a fine of not more than two hundred dollars ($200.00) for each offense, or to imprisonment for not more than thirty (30) days, or to both. Each day or fraction of a day on which an offense shall continue shall be construed as a separate and distinct offense.

(Code 1957, § 5-605; Ord. No. 645, § 1, 2-6-62)

Secs. 14-85--14-94. Reserved.

ARTICLE V. DISTRESS SALES AND SIMILAR SALES

Sec. 14-95. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Advertising shall mean any and all means of conveying to the public notice of a sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertisement, by magazine advertisement, by handbill, by written notice, by printed notice, by printed display, by billboard display, by poster, by radio announcement and any and all means including oral, written or printed.

Sale shall mean the sale or an offer to sell to the public, goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller, that such sale is anticipatory to the termination, closing, liquidation, revision, windup, discontinuance, conclusion or abandonment of the business in connection with the sale. It shall also include any sale advertised to be a "fire sale," "adjustment sale," "creditor's sale," "trustee's sale," "liquidation sale," "reorganization sale," "alteration sale," "executor's sale," "administrator's sale," "insolvent sale," "insurance salvage sale," "rummage sale," "mortgage sale," "assignee's sale," "adjustor's sale," "receiver's sale," "loss-of-lease sale," "wholesaler's closeout sale," "creditor's committee sale," "forced-out-of-business sale," "removal sale" and any and all sales advertised in such manner as to reasonably convey to the public that upon the disposal of the stock of goods on hand, the business will cease and be discontinued.

(Code 1957, § 5-115.1(a), (b); Ord. No. 695, § 1, 1-7-64)

Sec. 14-96. Persons exempt from this article.

The following persons shall be exempt from the provisions of this article:

(a) Persons acting pursuant to an order of a court of competent jurisdiction;

(b) Sheriffs and marshals acting in accordance with their powers and duties as public officers;

(c) Duly licensed auctioneers, selling at auction.

(Code 1957, § 5-115.6; Ord. No. 695, § 1, 1-7-64)

Sec. 14-97. License required.

It shall be unlawful for any person to advertise for or conduct any sale of the type defined in this article without having obtained a license therefor in compliance with the provisions of this article.

(Code 1957, § 5-115; Ord. No. 695, § 1, 1-7-64)

Sec. 14-98. Locations ineligible for license.

No license required by this article, or renewal thereof, shall be granted for the purpose of holding or conducting a rummage sale on Park Avenue or Beech Street within the limits of the city, except that a religious or fraternal institution or organization may conduct such sales within the confines of buildings owned and operated by the institution or organization.

(Code 1957, § 5-115(d); Ord. No. 960/70, § 1, 3-3-70)

Sec. 14-99. License application.

Applicants for a license under this article, whether a natural or artificial person, shall file a written sworn application signed by the applicant if an individual, by all partners if a partnership, and by the president if a corporation, with the city clerk, showing:

(a) A description of the place where the sale is to be held;

(b) The nature of the occupancy, whether by lease or sublease, and the effective date of termination of the occupancy;

(c) The means to be employed in advertising the sale;

(d) The duration of time for the sale;

(e) Any additional information as the city clerk may require.

(Code 1957, § 5-115.2; Ord. No. 695, § 1, 1-7-64)

Sec. 14-100. Issuance and period of license.

(a) Upon receipt of an application for a license required by this article, the city clerk, after investigation thereof may issue the license for a period not exceeding thirty (30) days.

(b) In the event the applicant for a license required by this article shall require an extension of time for the completion of the sale, then in that event, a final renewal for an additional thirty (30) day period may be granted by the city clerk.

(Code 1957, §§ 5-115.3, 5-115.4; Ord. No. 695, § 1, 1-7-64)

Sec. 14-101. License fees.

Upon filing an application for an original license required by this article, the applicant shall pay a fee of thirty-five dollars ($35.00), the fee upon the renewal shall be fifteen dollars ($15.00).

(Code 1957, § 5-115.5; Ord. No. 695, § 1, 1-7-64; Ord. No. 1260/74, § 2, 11-26-74; Ord. No. 1555/84, § 13, 10-16-84)

Sec. 14-102. Penalty for violation of article.

Any person who shall violate any of the provisions of this article, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars ($100.00), or

by imprisonment not exceeding sixty (60) days, or by both.

(Code 1957, § 5-115.7; Ord. No. 695, § 1, 1-7-64)

Secs. 14-103--14-112. Reserved.

Sec. 14-102. Penalty for violation of article.

ARTICLE VI. PLACES OF PUBLIC ENTERTAINMENT

Sec. 14-113. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Dance hall shall mean any place the principal purpose of which is to provide a place for dancing by the public.

Entertainment shall not include any music reproduced mechanically by radio, telephonic device or the playing of musical instruments unrelated to dancing or other entertainment.

Nightclub, supper club and *cabaret* shall mean any room, place or space in which any musical entertainment, singing, dancing or other form of amusement is permitted in connection with the restaurant business or the business of directly or indirectly selling to the public food or drink, except eating or drinking places which provide incidental musical entertainment, without dancing, either by mechanical devices or by not more than two (2) persons playing piano, organ, accordian or guitar or any other stringed instrument, or by not more than one singer accompanied by himself or by only one person playing piano, organ, accordian, guitar or any other stringed instrument.

(Code 1957, § 5-106.1A; Ord. No. 379-A.2, § 9, 7-5-60; Ord. No. 1631/87, § 1, 7-7-87)

Sec. 14-114. When license required; fee; approval of application to operate certain businesses.

No person shall engage in any of the following businesses without first obtaining a license therefor and paying the fee designated:

BILLIARD ROOMS, minimum fee of . . . $ 35.00

Billiard or pool tables:

First table . . . 15.00

For each additional table kept on the same premises . . . 10.00

BOWLING ALLEYS:

First 10 lanes . . . 200.00

Each additional, in excess of 10 . . . 15.00

BOXING ARENAS . . . 150.00

CONCESSIONS OR PLACES OF AMUSEMENTS

Less than 10 feet frontage . . . 100.00

10 feet and over of frontage . . . 135.00

DANCE HALLS . . . 135.00

GROUP GAMES, TANGO, FASCINATION AND ALL GAMES OF A SIMILAR NATURE .

. . 350.00

NIGHTCLUBS OR SUPPER CLUBS . . . 540.00

PRIVATE BEACH CLUBS OR PLACES USED FOR SUNBATHING, for entrance to which a fee is charged . . . 700.00

Anything herein contained to the contrary notwithstanding the city clerk shall not issue any license for the conduct of a public billiard room or poolroom, without the applicant having first obtained from the council of the City of Long Beach approval of his application.

(Code 1957, § 5-106.1; Ord. No. 602-D, 4-7-59; Ord. No. 379-A.2, §§ 6, 7, 7-5-60; Ord. No. 1101/71, § 3, 12-7-71; Ord. No. 1125/72, § 3, 6-6-72; Ord. No. 1260/74, § 2, 11-26-74; Ord. No. 1287/75, § 1, 7-1-75; Ord. No. 1555/84, § 3, 10-16-84; Ord. No. 3007/16, § 1, 5/24/2016; Ord. No. 3049/21, 05-04-2021)

Sec. 14-115. Application for license.

Upon the filing of the application for license required by this article, the city clerk shall forthwith transmit the application to the police department and the building department and it shall be investigated by the police department and the building department and a written report from each made to the city clerk thereon within ten (10) days. The city clerk shall thereupon issue the license, unless there is good cause for denial set forth in the police department and/or building department reports, or if such denial is mandated by section 14-118 of this article.

(Code 1957, § 5-106.2; Ord. No. 1845/95, § 1, 7-5-95)

Sec. 14-116. Reserved.

Sec. 14-117. When approval by the health department is required.

An application for a license required by this article to operate a private beach club or a place used for sunbathing, for entrance to which a fee is charged, shall also be approved by the Nassau County Department of Health and by those officials of the state whose approval is required for a bathhouse or bathing beach, before a license therefor shall be issued by the city clerk.

(Code 1957, § 5-106.2; Ord. No. 3052/21, 07-06-2021)

Sec. 14-118. Persons and premises ineligible for license.

No license required by this article shall, under any condition, be approved by the city clerk to any applicant therefor who shall have been convicted within one (1) year of the date of the application of a second offense against any of the provisions of this article, or to any association or corporation of which a member shall have been so convicted, or to any person who has, within five (5) years of the date of application, been convicted of a felony or to any association or partnership of which any member has been so convicted of a felony; and if the nightclub and supper club, poolroom, billiard room or bowling alley, dance hall, place of amusement and entertainment, game concession, boxing arena or public place of any description in which the foregoing businesses or activities are conducted or the place in which the businesses or activities are to be

located and sought to be licensed, do not comply in any way with the provisions of this Code and other city ordinances, regulations and laws applicable thereto.

(Code 1957, § 5-106.3)

Sec. 14-119. Transfer of license.

No transfer of a license under this article shall be permitted under any condition whatsoever.

(Code 1957, § 5-106.6)

Sec. 14-120. Obstruction to view prohibited.

Where a window is in any room or place where pool, billiard, bowling or other games, concessions or amusements are licensed to be played, at least the lower one-third (1/3) part of the window shall be of clear glass and shall not be screened or curtained at any time nor shall there be any article or thing in the rear of the window so as to prevent a full, clear and unobstructed view of the room or place. There shall be no enclosed box or stall or private room, and no partition or screen forming such boxes or stalls or private rooms shall be permitted. There shall be no interior billiard or poolroom not having a principal door or entrance and such door and all other doors entering a room or place where pool, billiards or bowling is licensed to be played, shall have therein a section of clear glass sufficient to afford from the outside a clear view of the room or place. None of the provisions of this section, however, shall be construed to prevent the maintenance of washrooms or toilet rooms for proper purposes or maintenance of closets for storing purposes exclusively.

(Code 1957, § 5-106.4)

Sec. 14-121. Hours of operation; excessive noise.

(a) It shall be unlawful for any licensee under this article to keep open to the public any place of amusement in the city from which noise emanates, after 11:00 p.m. from Sunday through Thursday of each week, and after 12:00 midnight on the other nights of each week.

(b) It shall be unlawful for any licensee under this article to permit or allow any noise to emanate from any public place of amusement after closing hours established by this section.

(c) It shall be unlawful for any supper club license holder to suffer, permit or allow patrons to remain on his premises after 3:15 a.m., except where a permit or license to do so has been issued by the state liquor authority.

(d) It shall be unlawful for any supper club or cabaret license holder to suffer, permit or allow any entertainment, music or other similar activity on his premises after 11:00 p.m. from Sunday through Thursday of each week, and after 12:00 midnight on Friday and Saturday of each week.

(e) As used in this section, "noise" is defined to be loud or boisterous language or mechanical sounds sufficient to disturb the comfort or repose of residents in the nearby neighborhood.

(Code 1957, § 5-106.5; Ord. No. 708, § 1, 4-7-64; Ord. No. 744, § 1, 4-6-65)

Sec. 14-122. Conduct and control of play of games.

(a) Each licensee under this article for a concession in which players compete with other players for prizes, or a group game, shall clearly indicate by legible sign discernible to all players or prospective players, the prices to be charged for each play of his game, and no charge in excess of the advertised price shall be made.

(b) Each licensee under this article for a group game shall see to it that the price for each individual play of his game is collected from each player prior to the start of each play and that no more than the price of one play shall be collected from any player at any time.

(c) Each licensee under this article for a group game played by the rolling or tossing of balls shall have a uniformed employee so stationed as to prevent the admission of unaccompanied minors and the sale of coupons or prizes by the winners thereof.

(Code 1957, §§ 5-108.1--5-108.3)

Secs. 14-123--14-132. Reserved.

ARTICLE VII. CARRYOUT BAGS

Sec. 14-133. Legislative Intent

This Article is enacted to promote the use of reusable bags over carryout bags, in order to reduce the negative environmental and economic impacts associated with carryout bags. Most carryout bags made from either plastic, paper or other materials do not readily decompose and contribute to problematic litter because of their lightweight, allowing them to be blown onto sidewalks, into trees, into the ocean and onto the beach, as well as into the streets blocking storm drains. The City finds that imposing a bag fee on the customer can create a shift in consumer behavior toward the use of reusable bags and significantly reduce the amount of carryout bags within our City.As used in this article, the following terms shall have the meanings ascribed to them.

(Ord. No. 3009/16, § 1, 10-18-2016)

Sec. 14-134. Definitions.

As used in this Article, the following terms shall be defined as follows:

Business Establishment shall mean any business required to be licensed pursuant to Section 14-15 of this Chapter that provides carryout bags to its customers.

Carryout Bag shall mean a bag provided by a business establishment to a customer typically at the point of sale for the purpose of transporting purchases.

Exempt Bag shall mean any of the following: (i) a bag without handles that is used to carry produce, meats, loose baked goods, loose dry goods, dry cleaning, newspaper delivery bags, liquor store sales, flowers or other non-prepackaged food items to the point of sale within a store or market, or to prevent such items from coming in direct contact with other purchased items or (ii) a bag provided by a doctor, pharmacist or veterinaryian to carry prescription drugs.

Reusable Carryout Bag shall mean a carryout bag with handles that is specifically designed and manufactured for multiple reuse and is either (i) made of cloth or other machine washable fabric or (ii) made of durable plastic that is at least 2.25 mils thick and is specifically designed and manufactured for multiple reuse.

(Ord. No. 3009/16, § 1, 10-18-2016)

Sec. 14-135. Fee and Fee Exemptions.

(a) Fee: Business establishments shall charge a fee of not less than five (5) cents for each carryout bag provided to any person. City run facilities, City sponsored events and any event held on City property shall also charge a fee of not less than five (5) cents for each carryout bag provided to any person.

No business establishment shall charge this fee for an exempt bag. All monies collected shall be retained by the business establishment.

(b) Fee Exemptions:

(1) All business establishments that provide carryout bags to customers shall provide said bags free of charge for items purchased by any person using the New York State Supplemental Nutrition Assistance Program (SNAP) or New York State Special Supplemental Nutrition Program for Women, Infants and Children (WIC), as full or partial payment.

(2) No business establishment shall charge a fee or prevent a customer from using a bag of any kind that they have brought for the purposes of carrying goods from such business establishment.

(Ord. No. 3009/16, § 1, 10-18-2016)

Sec. 14-136. Regulations.

(a) All business establishments shall post signs at or near points of sale located in such establishments to notify customers of the provisions of this Article.

(Ord. No. 3009/16, § 1, 10-18-2016)

Sec. 14-137. Penalties for offenses.

(a) A fine may be imposed upon any business establishment that has provided a carryout bag to a customer in violation of this Article, as follows:

(1) A fine not exceeding one hundred dollars ($100.00) for a first violation;

(2) A fine not exceeding two hundred dollars ($200.00) for a second violation;

(3) A fine not exceeding two hundred fifty dollars ($250.00) for a third violation and subsequent violations.

(b) In the event of a continuing violation, each day such offense continues shall constitute a separate additional violation."

(Ord. No. 3009/16, § 1, 10-18-2016)

Secs. 14-138--14-176. Reserved.

ARTICLE VIII. TRANSIENT MERCHANTS, PEDDLERS AND SOLICITORS

DIVISION 1. GENERALLY

Sec. 14-177. Purpose and intent.

(a) It is the intent of the city council in enacting this article:

(1) To serve and protect the health, safety and welfare of the general public;

(2) To establish a uniform set of rules and regulations that are fair and equitable;

(3) To develop a vending system that will enhance the overall appearance and environment along public streets, pedestrian ways and other public properties;

(4) To provide economic development opportunities to small entrepreneurs in the city;

(5) To promote stable vendors who will enrich the city's ambiance and be assets to public security; and

(6) To ensure equal access to services throughout the city.

(Ord. No. 2019/07, § 1, 5-15-07)

Sec. 14-178. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Industrial caterer shall mean any person, firm or corporation that sells, serves or offers for sale any foods, refreshments or drinks from a fixed place of business in premises located in an industrial zone district of the city.

Merchant shall mean any person, whether as owner, agent, consignee or employee and whether a resident of the city or not, who engages in a business of selling goods; wares, merchandise or services from a fixed place of business in premises located in a commercial zone district of the city.

Motor vehicle means any motorized vehicle used for displaying, storing or transporting articles for sale by a vendor which is required to be licensed and registered by the department of motor vehicles of any state.

Peddler shall mean any person, whether as owner, agent, consignee or employee traveling by foot, bike, wagon, push cart or motor vehicle on any street soliciting, conveying, offering and/or selling only ice cream products, candy and non-alcoholic beverages. A peddler also includes a transient merchant.

Push cart means any wheeled vehicle approved by the city clerk in accordance with this article, which is designed for carrying property and for being pushed by a person without the assistance of a motor or motor vehicle.

Vehicle as used in this article shall mean any wheeled means of transporting goods or wares.

(Code 1957, §§ 5-202--5-202.3; Ord. No. 1581/86, § 1, 3-4-86; Ord. No. 1862/96, § 1, 8-20-96; Ord. No. 2019/07, § 1, 5-15-07)

Sec. 14-179. Duties and restrictions on peddlers, merchants and industrial caterers.

The following duties and restrictions shall apply to peddlers, merchants and industrial caterers:

(a) A holder of a license issued pursuant to this article shall not:

(1) Falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale, or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

(2) Display the license issued under this article after the license has expired or been revoked.

(3) Stand or remain in a fixed location for more than fifteen (15) minutes. After the expiration of fifteen (15) minutes, said peddler shall be required to move a minimum of five hundred (500) feet.

(4) Sell any ice cream products and/or soda within five hundred (500) feet of any school prior to 5:00 p.m. on school days, or within five hundred (500) feet of any building where confection, ice cream or edibles are sold. Notwithstanding the foregoing, the owner and/or lessee of such building may sell ice cream products and/or soda within two hundred (200) feet of its building premises, provided that the owner and/or lessee does not violate any other provisions of the code or any contract which the city council has approved. This provision shall not give the owner and/or lessee permission to sell on a city street, sidewalk or boardwalk.

(5) Permit any vehicle used by him to stop or stand within the Ocean Beach Park or on any crosswalk or in front of any of the entrances to the Ocean Beach Park or the entrances to any building owned by the City of Long Beach, in such a manner as to obstruct or impede the flow of pedestrian traffic.

(6) No push cart shall exceed the total height of fifty (50) inches, including all accessories, except an umbrella. Total dimensions of carts shall not exceed three (3) feet by seven (7) feet. The longest dimension shall at all times be parallel to the curbline when said cart is operated on a sidewalk.

(7) Not sell, offer to sell or display any items not authorized by the City of Long Beach license held by said peddler.

(b) A holder of a license issued pursuant to this article shall:

(1) Keep the vehicles and receptacles used by him in a clean and sanitary condition, and the foodstuffs and edibles offered for sale

well covered and protected from dirt, dust and insects. All inventory shall be kept within the cart and out of the public view. The area surrounding the peddler shall be kept clear of trash and debris.

(2) Conduct the licensed business only from 11:00 a.m. to 8:00 p.m.

(3) In the case of one selling from a vehicle, obtain and produce proof to the city clerk of a policy of liability insurance, covering each vehicle, for the protection of the public at large. Such insurance shall provide one hundred thousand dollars ($100,000.00) of protection for each injured person and three hundred thousand dollars ($300,000.00) per occurrence. The City of Long Beach must be named as a certificate holder on the policy. Proof of insurance must be provided as a condition precedent to the issuance of a license issued under this section. In the event that the insurance policy lapses or is cancelled, the license issued under this section shall be revoked and the license holder must reapply as if applying for a new license.

(4) Use only vehicles which can be easily moved or maintained under the control of the licensee, his employee or attendant.

(5) Maintain the approval and issuance of a certificate of health inspection, as required, from the Nassau County Department of Health.

(c) No person, firm or corporation shall sell, offer to sell or serve from, or display on, any motor vehicle any foods, edibles, refreshments or drinks, except that the holder of an industrial caterer's license may sell and serve such food and drinks from a motor vehicle and in an industrial zone only.

(d) This article will not apply to concession contracts granted by the city council on the Ocean Beach Park.

(Code 1957, § 5-208.1; Ord. No. 537-A, § 1, 6-6-61; Ord. No. 1311/76, § 1, 5-4-76; Ord. No. 1581/86, §§ 2, 3, 3-4-86; Ord. No. 1691/89, § 1, 4-4-89; Ord. No. 1699/89, § 1, 5-16-89; Ord. No. 1755/91, § 1, 5-7-91; Ord. No. 1842/95, §§ 1, 2, 6-20-95; Ord. No. 1862/96, § 2, 8-20-96; Ord. No. 1930/00, § 1, 4-4-00; Ord. No. 2019/07, § 1, 5-15-07)

Sec. 14-180. Uninvited sales or solicitations in private residences.

(a) The practice of going in and upon private residences in the city by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise, not having been requested or invited so to do by the owner or occupant of the private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, or disposing of or peddling or hawking goods, wares and merchandise, is declared to be a violation.

(b) The provisions of subsection (a) shall not apply to the sale or soliciting of orders for the sale of milk, dairy products and eggs.

(c) Any person violating the provisions of this section shall, upon conviction thereof, be fined not more than two hundred fifty dollars ($250.00).

(Code 1957, §§ 5-209--5-209.2; Ord. No. 1133/72, § 1, 7-11-72; Ord. No. 2019/07, § 1, 5-15-07)

Sec. 14-181. Loud noises and amplifying devices.

No licensee under this article, nor anyone in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any other sound device including any loudspeaking radio or amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys or parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

(Code 1957, § 5-211)

Sec. 14-182. Duty of police to enforce this article.

It shall be the duty of the police officers of the city to examine all places of business and persons in their respective territories subject to the provisions of this article, to determine if this article has been complied with and to enforce the provisions of this article against any person found to be violating it.

(Code 1957, § 5-212)

Sec. 14-183. Penalty for violation of article.

Any person who himself or by his clerk, agent or employee shall violate any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be subject to a fine of not more than two hundred fifty dollars ($250.00) or imprisonment for not more than fifteen (15) days, or both, and each day on which such violation continues shall constitute a separate offense.

(Code 1957, § 5-217; Ord. No. 1133/72, § 1, 7-11-72)

Secs. 14-184--14-188. Reserved.

DIVISION 2. LICENSES

Sec. 14-189. Required.

It shall be unlawful for a transient merchant, itinerant merchant, itinerant vendor, peddler or solicitor to engage in such a business within the city without first obtaining a license therefor in compliance with the provisions of this division.

(Code 1957, § 5-201)

Sec. 14-189A. Display of identification badges and other permits.

(1) Any license or permit issued by the city clerk shall be carried with the licensee whenever he/she is engaged in vending. Identification badges for each vendor and/or employee and certificates of health inspection shall also be properly and conspicuously displayed at all times during the operation of the vending business.

(2) An identification badge shall be deemed to be properly displayed when it is attached to the outer garment of the vendor and clearly visible to the public and law enforcement officials. A certificate of health inspection shall be deemed to be properly displayed when attached to the vending pushcart, vehicle, stand or other conveyance, and clearly visible to the public and law enforcement officials.

(Ord. No. 2019/07, § 1, 5-15-07)

Sec. 14-189B. Notification of name or address change.

All vendors shall assure that a current and correct name, residence address and mailing address are on file with the city clerk. Whenever either the name or address provided by a licensed vendor on his/her application for a vending license changes, the licensee shall notify the city clerk in writing within ten (10) days of such change and provide the same with the name change or address change.

(Ord. No. 2019/07, § 1, 5-15-07)

Sec. 14-190. Application.

An applicant for a license required by this article, shall file a written, sworn application signed by the applicant, if an individual, by all partners if a partnership and by the president if a corporation, with the city clerk showing:

(a) The name and full face photograph of the person having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the city; the local address of such person while engaged in the business; the permanent address of the person; the capacity in which such person will act, that is, whether as proprietor, agent or otherwise; the name and address of the person for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the corporation is incorporated and a photograph of the actual vehicle to be used by the applicant.

(b) The fingerprints of the person having the management or supervision of applicant's business or, in lieu thereof, at least three (3) letters of recommendation from reliable property owners in the state certifying as to the applicant's good character and business responsibility, or other evidence which establishes to the satisfaction of the city manager the good character and business responsibility of such person.

(c) The place in the city where it is proposed to carry on applicant's business, and the length of time during which it is proposed that the business shall be conducted.

(d) The place, other than the permanent place of business of the applicant, where the applicant within the six (6) months next preceding the date of his application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which the business was conducted.

(e) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the city, the invoice value and quality of such goods, wares and merchandise, whether the goods are proposed to be sold from stock in possession or from stock in possession and by sample, at auction or by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced and where the goods or products are located at the time the application is filed.

(f) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers and, if required by the city clerk, copies of all such advertising, whether by handbill, circular, newspaper advertising, or otherwise, shall be attached to the application as exhibits thereto.

(g) Whether or not the person having the management or supervision of the applicant's business has been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of the offense and the punishment assessed therefor.

(h) Credentials from the person for which the applicant proposes to do business, authorizing the applicant to act as his representative.

(i) Such other reasonable information as to the identity or character of the person having the management or supervision of applicant's business or the method or plan of doing such business as the city clerk may deem proper to fulfill the purpose of this article in the protection of the public good.

(Code 1957, § 5-203; Ord. No. 2019/07, § 1, 5-15-07)

Sec. 14-191. Bond prerequisite to transient merchant's license.

Before any license required by this division for a transient merchant, itinerant merchant or itinerant vendor shall be issued, the applicant therefor shall file with the city clerk a surety company bond to the city in the sum of two thousand dollars ($2,000.00), which surety company shall be duly licensed to do business in the State of New York,

and which bond shall be conditioned that the applicant will comply fully with all of the provisions of this Code and the laws of the State of New York regulating and concerning the sale of goods, wares and merchandise, and will pay all judgments rendered against the applicant for any violation of this Code or other city ordinances or state statutes, or any of them, together with all judgments and costs that may be recovered against him by any person for damage growing out of any misrepresentation or deception practiced on any person transacting the business with the applicant, whether the misrepresentation or deception was made or practiced by the owners or by their servants, agents or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the city to the use of the aggrieved person.

(Code 1957, § 5-205; Ord. No. 1622/87, § 2, 4-21-87)

Sec. 14-192. Fees; license year.

(a) An applicant using a motor vehicle shall pay a fee of two hundred fifty dollars ($250.00) per vehicle. The fee for any other vehicle or push cart shall be one hundred dollars ($100.00) per vehicle or push cart.

(b) A license fee established by this section shall be due and payable on the first day of December in each calendar year and the license shall expire on the last day of November in the following year.

(Code 1957, § 5-208; Ord. No. 1043/71, § 2, 5-4-71; Ord. No. 1260/74, § 2, 11-26-74; Ord. No. 1390/79, § 1, 1-2-79; Ord. No. 1422/80, § 1, 7-1-80; Ord. No. 1555/84, § 5, 10-16-84; Ord. No. 1581, § 4, 3-4-86; Ord. No. 1862/96, § 3, 8-20-96; Ord. No. 2019/07, § 1, 5-15-07)

Sec. 14-193. Investigation and issuance.

Upon receipt of an application for a license required by this article, the city clerk shall cause such investigation of the applicant's business responsibility or moral character to be made as he deems necessary for the protection of the public good. If, as a result of the investigation, the applicant's character and business responsibility are found to be unsatisfactory, the application shall be denied. If, as a result of the investigation, the character and business reputation of the applicant appear to be satisfactory, the city clerk shall so certify in writing, and a license shall be issued by the city clerk.

(Code 1957, § 5-204)

Sec. 14-194. Contents of license.

A license issued pursuant to this division shall contain the number of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of the license, the place where the business may be carried on under the license, and the name of the person authorized to carry on the business.

(Code 1957, § 5-204)

Sec. 14-195. Records.

It shall be the duty of the city clerk to keep a record of all applications and of all licenses granted under the provisions of this division, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid and the date of revocation of any licenses revoked.

(Code 1957, §§ 5-204, 5-213)

Sec. 14-196. Designation of city clerk as agent for service of process.

Before any license required by this division shall be issued, the applicant therefor shall file with the city clerk an instrument nominating and appointing the city clerk, or the person performing the duties of the city clerk, as his true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of said applicant in respect to any matters connected with or arising out of the business transacted under said license and the bond given as required by this division, or for the performance of the conditions of the bond or for any breach thereof, which instrument shall also contain recitals to the effect that the applicant for the license consents and agrees that service of any notice or process may be made upon the agent, and when so made shall be taken and held to be as valid as if personally served upon the person applying for the license under this division, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgment of service or manner of service. Immediately upon service of process upon the city clerk, as provided in this section, the city clerk shall send to the licensee at his last known address, by registered mail, a copy of the process.

(Code 1957, § 5-206)

Sec. 14-197. Exhibition of license.

A license issued pursuant to this division shall be posted conspicuously in the place of business named therein; affixed to each vehicle or push cart. In the event that the person applying for the license shall desire to do business in more than one (1) place within the city, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business; affixed to each vehicle or push cart.

(Code 1957, § 5-207; Ord. No. 2019/07, § 1, 5-15-07)

Sec. 14-198. Transferability.

No license issued pursuant to this division shall be transferred without written consent from the city manager as evidenced by an endorsement on the face of the license by the city clerk showing to whom the license is transferred and the date of the transfer.

(Code 1957, § 5-210)

Sec. 14-199. Revocation.

(a) A license issued pursuant to this division may be revoked by the city manager after notice and hearing, for any of the following causes:

(1) Any fraud, misrepresentation or false statement contained in the application for license;

(2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;

(3) Any violation of this article;

(4) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude;

(5) Conducting the business licensed under this division in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(b) Notice of a hearing for the revocation of a license issued pursuant to this division shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid, to the licensee at his last known address, at least five (5) days prior to the date set for the hearing.

(Code 1957, §§ 5-214.1, 5-214.2)

Sec. 14-200. Appeal from denial or revocation of license.

Any person aggrieved by the decision of the city clerk in regard to the denial of application for a license required by this division or in connection with the revocation of a license as provided for in this division, shall have the right to appeal to the city council. The appeal shall be taken by filing with the city council within fourteen (14) days after notice of the decision by the city clerk or city manager, as the case may be, has been mailed to such person's last known address, a written statement setting forth the grounds for the appeal. The city council shall set the time and place for a hearing on the appeal and notice of the hearing shall be given to the person in the same manner as provided in this division for notice of hearing on revocation. The order of the city council on the appeal shall be final.

(Code 1957, § 5-215)

Secs. 14-201--14-204. Reserved.

DIVISION 3. CHARITABLE SOLICITOR LICENSES

Sec. 14-205. Definitions.

Charitable solicitor includes any person intending to solicit funds or pledges for funds within the City of Long Beach by means of a door-to-door drive or direct, person-to-person fund-raising solicitation for the benefit of a charitable or religious organization.

(Ord. No. 2019/07, § 1, 5-15-07)

Sec. 14-206. Special procedure for charitable solicitor's licenses.

A. *Generally.* Notwithstanding any contrary provisions of this article the following procedure shall be applicable to all applications for a charitable solicitor's license and the carrying on of charitable solicitation thereunder.

B. *Application form.* Any charitable or religious organization intending to solicit funds within the City of Long Beach by means of a door-to-door drive or direct, personal solicitation shall file an application with the city clerk. Such application shall be verified and contain the following information:

(1) The full name and address of the organization and its purposes.

(2) The name and telephone number of the person in charge of the fund-raising activities within the City of Long Beach and the names of each person conducting said fund-raising.

(3) The date or dates during which the door-to-door solicitation or fund-raising drive shall be made.

(4) A statement showing that gifts to any such organization are entitled to tax deductions according to the provisions of the Internal Revenue Code of the United States of America. In the absence of such approval, all pertinent facts establishing the sponsoring organization as a not-for-profit charitable or religious organization shall be set forth in detail.

(5) A list of the officers, directors and the executive in charge of the organization if any.

(6) A sample of the identification card or other written identification to be used by all individual solicitors.

C. *Approval of application.* The city clerk shall approve all applications received in proper form, provided that the donations are approved as tax deductible according to the provisions of the Internal Revenue Code of the Untied States. If such donations are not tax deductible, the city clerk, prior to approving any such application, shall require such other information as may be reasonable or necessary in order to determine that said organization is, in fact, religious or charitable in nature and function as distinguished from a means of soliciting funds for individual pecuniary benefits of the solicitor or for commercial purposes of such organization.

D. *Lists of solicitors to be maintained.* Any charitable or religious organization

obtaining a charitable solicitor's license for the purpose of soliciting funds in the City of Long Beach shall maintain a list or file of all solicitors at its principal office, which list or file shall be made available for inspection from time to time upon the request of the city clerk.

E. *Identification card.* Every person soliciting for or on behalf of any charitable or religious organization licensed hereunder shall carry on his or her person a written identification and shall produce the same upon the request of any person. Failure to produce the same shall constitute a violation of this section.

(Ord. No. 2019/07, § 1, 5-15-07)

Secs. 14-207--14-210. Reserved.

Sec. 14-206. Special procedure for charitable solicitor's licenses.

ARTICLE IX. PARKING LOTS

Sec. 14-211. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Day shall mean either of the following periods:

(a) Any period of time commencing between 8:00 a.m. and 8:00 p.m. in any day and terminating at 8:00 a.m. on the following day; or

(b) Any period of time commencing between 8:00 p.m. on any day and 8:00 a.m. on the following day and terminating at 8:00 p.m. on the latter day.

Parking lot shall mean any area used for the parking of motor vehicles outside of the confines of a building.

(Code 1957, § 8-401)

Sec. 14-212. Reserved.

Editor's note: Section 14-212 pertaining to maximum rates was repealed by Ord. No. 3046/21 adopted 02-16-2021. The former section derived from Code 1957, §§ 8-402, 8-403; Ord. No. 1509/83, § 1, 6-21-83.

Sec. 14-213. Signs.

Signs shall be erected and maintained at all times at each entrance to every every private parking lot which charges an hourly, daily, weekly, monthly, or yearly fee, or any derivative thereof. Such signs shall designate and include the following information:

(a) Private Property Only;
(b) Owner/Management Telephone Contact Number;
(c) Parking Rates Per Spot;
(d) Tow Company's Telephone Contact Number and Tow Rates along with the verbiage "Violators will be towed at their own expense

All letters and figures on each such sign shall be at least four (4) inches in height, and sufficient illumination shall be provided so that such signs shall be readily readable after sunset.

(Code 1957, § 8-404; Ord. No. 3046/21, § 1, 02-16-2021)

Sec. 14-214. Records.

The operator or person in charge of each parking lot shall cause to be kept an accurate record of the day and hour when each automobile is parked therein; the day and hour when said automobile is removed therefrom; and the charge made for the parking thereof. The records shall be retained by the operator or person in charge of each parking lot for a period of at least ninety (90) days, and said records shall be

available at all times for inspection by the police and licensing authorities and shall be produced immediately upon demand of such authorities.

(Code 1957, § 8-405)

Sec. 14-215. License required.

No person shall operate a parking lot in the city without first obtaining a license therefor as prescribed in section 14-14 et seq.

Sec. 14-216. Revocation of license.

In addition to the penalties provided in this division, the city clerk shall, with the approval of the city council, have the power to revoke the license issued for any parking lot, the operator or person in charge of which has been convicted of a violation of any provision of this division.

(Code 1957, § 8-407)

Sec. 14-217. Penalty.

Every person violating any provision or requirement of this article shall be deemed guilty of a violation, punishable by a fine of not more than two hundred fifty dollars ($250.00) or by imprisonment for not exceeding fifteen (15) days, or by both such fine and imprisonment.

(Code 1957, § 8-406; Ord. No. 1133/72, § 1, 7-11-72)

Secs. 14-218--14-220. Reserved.

ARTICLE X. HOTELS, BOARDING AND ROOMING HOUSES

Sec. 14-221. Purpose.

The purpose of this article is to regulate and supervise the operation, function, and physical facilities of hotels, with regard to the health, safety and welfare of its inhabitants. In order to insure this, provisions are made for the licensing, inspection and review of all hotel facilities.

(Code 1957, § 5-701; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-222. License required.

No hotel, boarding house, rooming house or other building of similar function as defined under section 14-223 of this article shall be operated except under a license form the City of Long Beach. Such license shall be issued for one year in accordance with the provisions of section 14-31 and is renewable annually and shall be revocable for cause. Application for license shall be made on the form provided for the purpose and, where deemed necessary, shall include plans showing details of the construction, exit facilities and fire protection equipment. No license shall be issued until the provisions of this article have been complied with and approval has been obtained from the building department and bureau of fire prevention of the City of Long Beach.

(Code 1957, § 5-702; Ord. No. 1195/73, § 1, 12-27-73; Ord. No. 1357/78, § 1, 4-4-78)

Sec. 14-223. Definitions.

(a) *Hotel:* A multiple dwelling facility, the primary purpose of which is to provide sleeping accommodations; that may be rented on a daily, weekly or longer term basis; that provides twenty-four (24) hour desk service, and customary hotel services, such as maid service, linens, telephone, food and the use and upkeep of furniture.

(b) *Rooming house, lodging house, boarding house:* A dwelling where lodging or lodging and meals are provided for compensation, with no individual cooking facilities and no accommodations for transient guests. A lodging house or boarding house shall be deemed a rooming house.

(c) *Automatic fire detection system:* A system which automatically detects a fire condition and actuates a fire alarm signal device.

(d) *Person:* Persons, children, infants, firms, corporations or co-partnerships.

(e) *Resident:* Any person rooming, lodging or maintaining his residence in any facility covered by this article.

(Code 1957, § 5-703; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-224. General.

(a) Facilities and services shall be adequate to meet the physical and social needs of all residents and to protect their health, safety, comfort and well-being.

(b) There shall be a sufficient number of competent personnel to supervise, operate and maintain the premises in a safe and sanitary condition and render the services the facility is to provide.

(c) Recreational and diversionary activities shall be available to all residents. It shall be the responsibility of one staff member to develop and direct a program of such activities and file a copy of said program with the city. A staff member shall have the responsibility for the recreational program and should provide supervision and training for other staff members and volunteers. The program should include but not be limited to:

(1) Plan and conduct a program of meaningful indoor and outdoor activities for the residents at the facility, and encourage their participation in community affairs and events.

(2) Post a daily and monthly schedule of activities to provide information to residents and staff.

(3) Plan and coordinate the recreation program to utilize community resources to the fullest extent.

(4) Work in cooperation and coordination with other staff members.

(5) Supervise the activities of other paid and volunteer recreation staff.

(d) The comfort of religious ministration shall be available to all residents.

(e) Use of personal restraints is prohibited and residents shall not be locked in their rooms by day or night. Exits and ways of departure shall be maintained so as to provide free and unobstructed egress from all parts of the premises. No locks or fastenings to prevent free escape from the inside of any building shall be installed or used.

(f) There shall be an immediate examination and appropriate treatment by a physician of residents who have had potentially serious accidents. A recording of such accidents and treatment shall be made and a copy filed with the health and safety board.

(Code 1957, § 5-704; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-225. Registration.

(a) Persons may be registered with essentially stabilized chronic disorders or physical disabilities, who are not bedfast, and who do not require on a continuing basis medical or nursing care and treatment; or skilled observations of symptoms and reactions; or accurate recording of facts for purposes of reporting to the resident's physicians.

(b) Any person requiring continuous psychiatric or medical or continuous nursing services shall not be registered. Resident requiring medication for a mental illness or requiring out-patient medical or psychiatric care shall not continue to be registered if without said medication the resident may be a danger to himself or others or may not know the nature or quality of his acts or where the resident's actions may become so disturbing as to interfere with the comfort and safety of the other residents.

(c) Psychiatric, medical or nursing services shall not be provided. When medical or nursing services are required, they shall be purchased by the resident. The proprietor or operator shall at the time of registration enter into an understanding with each resident or with those responsible for said resident as to what will be done to secure such medical or nursing services as may be required by the resident.

(d) An interview shall be held with applicants for registration to ascertain that the facility can meet their need and a copy of said admission interview shall be available for review by the health and safety board of the City of Long Beach.

(e) A registration agreement, in writing, shall be entered into between the facility and the resident specifying the daily, weekly or monthly rate and the services the facility will provide the resident. The resident or other responsible person, shall be given a signed copy of said agreement.

(Code 1957, § 5-705; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-226. Termination of occupancy.

(a) No facility shall terminate the occupancy of any resident unless such termination is pursuant to the terms of its agreement with the resident or is required under the provisions of these rules.

(b) In case a resident develops a communicable disease, or any condition requiring psychiatric or continuous medical, physician's or nursing care, immediate arrangements to transfer such resident to an appropriate medical facility shall be made.

(c) When a resident is suffering from such degree of mental illness that there is either danger to himself or others, or that he does not understand the nature or quality of his acts, or where a resident's actions are so disturbing as to interfere with the safety and comfort of the other residents, arrangements must be made for his transfer to an appropriate facility.

(Code 1957, § 5-706; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-227. Building.

(a) Space requirements of one bedroom shall comply with the Code of the City of Long Beach.

(b) There shall be no more than two (2) persons residing in one bedroom.

(c) There shall be a minimum of one (1) toilet and one (1) lavatory, one (1) tub or shower for each four (4) residents.

(d) There shall be a central heating plan capable of supplying sufficient heat to maintain a legally required temperature in all occupied parts and common areas of the building, including corridors and stairways, without the use of supplemental heating equipment.

(e) Equipment shall include:

(1) Suitable, comfortable beds with an adequate supply of clean linen. Cots

or high hospital-type beds shall not be used.

(2) A chair, table and storage facilities for personal articles for each resident.

(3) An individual clothes closet or locker for each resident.

(4) Signal bells, hand bells, telephone or other suitable system of communication for use of residents.

(Code 1957, § 5-707; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-228. Food service.

(a) Adequate safe and clean facilities for food preparation, service and storage shall be provided.

(b) Three (3) meals daily shall be served, unless the agreement with the resident provides otherwise. All meals required to be served shall be nutritionally balanced and properly prepared.

(c) Between-meals nourishments shall be served.

(d) When a modified diet is prescribed for a resident by a physician, the prescribed diet shall be carefully followed and a copy on file.

(e) Cooking shall be prohibited in all areas except the kitchen.

(Code 1957, § 5-708; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-229. Responsibilities of proprietor.

The responsibilities of the proprietor or head of staff shall include the following:

(1) Planning the program of the services and care of residents to be performed daily by each member of the staff.

(2) Calling physicians when necessary.

(3) Supervision of the work of the staff.

(4) Supervision of the diets of residents.

(5) Maintaining required records.

(Code 1957, § 5-709; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-230. Duties of staff.

Duties of staff shall include, maintaining the following records for any persons registered and remaining for more than fifteen (15) days:

(1) A register containing the name of each resident, sex, age, marital status, religion, residence, the name and address of the nearest relative or friend and physician.

(2) Copies of the registration agreements entered into with residents, registered and remaining for more than fifteen (15) days.

(3) A written statement from the resident's physician obtained within fifteen (15) days of registration, stating that person does not require medical, psychiatric care or nursing services. Such a statement shall be effective for one year only from the date of admission and thereafter a new statement must be filed annually.

(4) Physician's instructions, if any, concerning special diets, activities or restrictions relating to the residents.

(5) Copies of menus on a continuous basis for six months, including modified diet as prescribed by physician.

(6) Records of accidents and fires.

(7) Accident reports.

(Code 1957, § 5-710; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-231. Fire requirements.

(a) Notwithstanding any other provisions in the Municipal Code all facilities shall provide an automatic smoke detection system on all floors, including attics, basements and storage areas, which shall be connected into the fire alarm system in the Long Beach Fire Headquarters.

(b) Said detection system to have stand-by electrical power in the event of a power failure. An enunciator panel which will indicate receipt of an alarm both visually and audibly and the visual means will indicate which system has been activated. The enunciator panel to be tied into the fire alarm system in fire headquarters. All fans for ventilation, air conditioning equipment are to be tied into the internal alarm system and shall shut down automatically when the fire alarm is activated.

The following notice shall be posted conspicuously in all rooms and public areas:

"NOTICE

Name of Facility

Address of Facility

Fire Department Telephone Number

"PROCEDURE TO BE FOLLOWED IN CASE OF FIRE

1. If a fire is discovered in a resident's room the first duty of the staff is to remove the resident from the fire area. (THIS SAFETY TO LIFE FEATURE SHOULD TAKE PRECEDENCE OVER TURNING IN THE FIRE ALARM.)

2. Remove from immediate danger any other residents in proximity to the fire and smoke area.

3. Notify the Fire Department, giving name and address of the building and alert staff through interior alarm.

4. Close doors and windows--do not shout "FIRE"--DO NOT PANIC.

5. Try to extinguish the fire by use of fire extinguishers.
6. On the arrival of the fire department follow instructions of the Officer in Charge.
7. Do not use elevator.

"PROCEDURE TO BE FOLLOWED IF RESIDENTS HAVE TO BE REMOVED

1. Account for all persons:

   FROM SECOND FLOOR:

   Use stairs remote from fire and smoke to ground floor and safety. Pair the residents to accompany each other. (Do not place residents above the first floor if they are incapable of walking without assistance)
2. Proceed to nearest safe building, as designated by chief officer of Fire Department.
3. Account for all residents, and remain with them. DO NOT RE-ENTER BUILDING.
4. Make residents comfortable--avoid confusion and panic.
5. Follow instructions of Fire Department regarding temporary relocation of residents.

   DO NOT PANIC

_____

Signature of City Fire Comm."

_____

Signature of Proprietor

Smoke detectors shall be placed as directed but not less than as follows:

(1) At the top of all stairwells and stair enclosures.

(2) In all corridors and exit hallways; one detector for every forty (40) feet on length or part thereof.

(3) In attic and basement areas; one for each one thousand (1,000) square feet of floor area or part thereof.

(4) Ceiling mounted detectors shall be located not less than twelve inches from adjacent walls. Wall mounted detectors shall be located not less than twelve (12) inches from the ceiling or intersection walls.

(5) Facilities with existing fire alarm systems must, if possible, have a supervised smoke detector system installed and connected thereto thus eliminating the confusion of different sounding alarms.

(6) Facilities caring for twenty or more residents will require a fully supervised detection system.

Sec. 14-231. Fire requirements.

Two (2) basic types of smoke detectors are presently approvable; the ionization type and the photo-electric type. Designs may vary by different manufacturers and only those units bearing an Underwriter's Laboratory label for the complete assembly will be approved. All smoke and fire detection systems will be approved by the Long Beach Fire Department Fire Prevention Bureau prior to installation.

(7) Door swing in direction of exit stair onto a terminal at least as deep as door-width dimension, plus six (6) inches.

Extinguishing equipment. Approved-type extinguishers shall be provided on each floor, so located that a person will not have to travel more than fifty (50) feet from any point to reach the nearest extinguisher. An additional approved extinguisher shall be provided in, or adjacent to, each kitchen or basement storage room, and such other areas as specified by the Bureau of Fire Prevention which shall determine the type and size of all extinguishers used.

(Code 1957, § 5-711; Ord. No. 1195/73, § 1, 12-27-73)

Cross references: See also, § 11-35.

Sec. 14-232. Automatic sprinkler protection.

(a) Buildings which are not of fire-resistive (fireproof or semifireproof) construction shall be protected throughout by an approved automatic sprinkler system, which shall be connected into the fire alarm system in the Long Beach Fire Headquarters.

(b) Sprinkler systems shall be provided with an approved water flow alarm on each floor as well as outside. At least three (3) spare sprinkler heads, of each type used in the building, or outside of the building, shall be stored in a metal container, maintained for that purpose and stationed near the main shutoff of the sprinkler system, plus necessary wrenches for the replacement of said sprinkler heads.

(c) Unless there is a fire alarm on an occupied floor there shall be a telephone on that floor and a placard shall be placed near such telephone indicating in large, readable letters the telephone number of the fire department. Pay phones are not satisfactory for this use.

(d) Employees shall be trained in the use of fire-fighting equipment, and in the means of rapidly evacuating the building by staff fire drills. Drills shall be held frequently and at varied times. A written record of each drill shall be kept on file for a period of one year and filed with the fire commissioner of the City of Long Beach. Employees will be given the opportunity to practice using fire extinguishers. A written record should be maintained indicating the time the drill is held, the number of employees participating, and an estimate of how long it took. Fire drills for staff should be conducted every three (3) months. All staff members will be required to participate. A set of fire regulations shall be posted in a conspicuous place on each floor setting forth the fire stations and duties of all employees and residents, and directions for the rapid evacuation of the premises.

(e) Two means of egress approximately spaced and suitably marked shall be

provided for each occupied floor. Access to such means of egress shall be freely accessible at all times and shall not be through a bedroom or bathroom.

(f) Nightlights shall be provided in all public hallways, interior and exterior stairways.

(g) An illuminated exit light may be adequate as a night light in a hallway.

(h) Steam pipes and radiators with which residents or staff may come in contact shall be shielded.

(i) Grab bars shall be provided residents' toilet room, over toilets, in bathtubs and showers.

(j) Bedrooms shall be at or above ground level and adequately lighted and ventilated.

(k) Bedrooms, bathrooms, and kitchens shall not be used as passageways.

(l) All the following fire hazards shall be eliminated and are prohibited:

(1) Space heaters

(2) The use of kerosene for cooking, lighting and heating

(3) Rubber tubing used as connections for gas burners

(4) The accumulation of combustible materials in attics, basements or other parts of the residence

(5) Non-metal containers for ashes

(6) Unsafe storage of paints, varnishes, oils, flammable liquids, etc.

(7) Obstruction to corridors and exits.

(Code 1957, § 5-712; Ord. No. 1195/73, § 1, 12-27-73)

Cross references: See also, § 11-35.

Sec. 14-233. Attendants.

Every building shall have at least one attendant on duty, awake and dressed therein at all times, and in addition, one standby attendant within hearing distance and available for emergency service. These attendants shall be at least eighteen (18) years of age and capable of performing the required duties of evacuation. No person other than the management or a person under management control shall be considered as an attendant. Attendants shall be familiar with automatic alarm systems and sprinkler systems in order to reset equipment when necessary and perform minor repairs when necessary.

(Code 1957, § 5-713; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-234. Evacuation plan.

(a) Every building shall have a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. All employees shall be instructed and kept informed respecting their duties under the plan.

(b) Every mattress shall be provided with strong canvas or leather handles so that it may serve as a stretcher when necessary for evacuation.

(Code 1957, § 5-714; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-235. Inspections.

Every building coming within the scope of this article shall be inspected periodically by representatives of the agencies named in section 14-222 in order to insure proper compliance with the provisions of this article, and by such other city agencies as may be required pursuant to other relevant ordinances.

(Code 1957, § 5-715; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-236. Statement of charges.

An itemized statement of all charges for goods and services performed shall be presented to each person residing in facilities subject to this article on a monthly basis. Copies of these statements shall be retained by the operator of the facility and shall be subject to audit by appropriate city officials.

(Code 1957, § 5-716; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-237. Retention of occupancy.

Each person residing in facilities subject to this article shall, if removed to a hospital or other similar facility, retain their right to continue occupancy of a room for a period of thirty (30) days.

(Code 1957, § 5-717; Ord. No. 1195/73, § 1, 12-27-73)

Sec. 14-238. Penalties for violation.

Any person who shall violate any of the provisions of this article shall be subject to a fine of not more than two hundred fifty dollars ($250.00) or by imprisonment not exceeding fifteen (15) days or both such fine and imprisonment. Each day such violation continues shall constitute a separate violation.

(Code 1957, § 5-718; Ord. No. 1195/73, § 1, 12-27-73)

Secs. 14-239--14-249. Reserved.

ARTICLE XI. ACCESS TO CRIMINAL HISTORY RECORDS

Sec. 14-250. Legislative intent.

This article is enacted in accordance with a policy requirement of the Division of Criminal Justice Services of the State of New York as a prerequisite for the city clerk or the police commissioner of the City of Long Beach to apply for and obtain a criminal history record of any person who applies for a license or permit, either as an individual, an officer of a corporation or a partner, under this chapter of the Long Beach Code of Ordinances, as part of the investigation of the person's past, as it relates to public safety and welfare, before a license or permit is issued.

(Ord. No. 1405/79, § 1, 10-16-79; Ord. No. 1627/87, § 1, 6-2-87)

Sec. 14-251. Criteria.

In order to determine the kind of past conduct which would preclude any applicant from obtaining a license or permit, the following criteria shall aid in such determination:

(a) Where an applicant has been convicted of any offense against any of the laws, ordinances, rules or regulations of the State of New York, County of Nassau, Town of Hempstead, City of Long Beach or other municipality.

(b) Where an applicant has been found by any court of the State of New York or the United States to have practiced any fraud, deceit or misrepresentation in the conduct of any occupation, business or profession.

(c) Where an applicant has had his license or permit which was duly issued under this chapter revoked at any time during the year prior to the time of an application for a renewal thereof.

(d) Where an applicant has had his license or permit which was duly issued under this chapter suspended, and the period of such suspension has not expired at the time of his application for such license or permit.

(Ord. No. 1405/79, § 1, 10-16-79)

Sec. 14-252. Procedure.

The city clerk or the police commissioner shall secure the applicant's fingerprints and his check or money order made payable to the "New York State Division of Criminal Justice Services," to cover the cost of searching, and shall thereupon forward the fingerprints and funds in the required amount for the processing and return of a criminal history record.

(Ord. No. 1405/79, § 1, 10-16-79)

Secs. 14-253--14-259. Reserved.

ARTICLE XII. SECONDHAND DEALERS*

***Editor's note:** Ord. No. 1411/80, § 1, adopted March 4, 1980, amended the Code by adding Art. XII, "Control and Regulation of Secondhand Dealers," to Ch. 14 as herein set out in §§ 14-260--14-276. In order to facilitate indexing, the editors have changed the article title to "Secondhand Dealers."

Sec. 14-260. General provisions.

(a) *Definition.* "Dealer in secondhand articles" shall mean any person who in any way, as principal, broker or agent:

(1) Deals in the commercial purchase or sale of secondhand articles for any purpose and of whatever nature, including, but not limited to, old gold or other precious metals, coins, stamps or currency, firearms, rifles, shotguns, cameras, business machines, musical instruments, outboard motors, or electronic equipment;

(2) Accepts or receives secondhand articles as returns of merchandise or in exchange for or for credits on any other articles or merchandise;

(3) Deals in the commercial purchase or sale of pawnbroker tickets or other evidence of pledged articles.

(b) *Exceptions.* Nothing contained in this article shall be construed to apply to:

(1) Automobiles, pianos, furniture, books, magazines, rugs, tapestries, artists' burlaps, paintings, sculpture, drawings, etchings and engravings;

(2) The first purchase or sale in the country of any imported secondhand article;

(3) The acceptance or receipt of merchandise in new condition as a return, exchange or for credit or refund, if such merchandise was originally purchased as new merchandise from the person accepting or receiving the same, nor to any resale of such merchandise as new merchandise or the first subsequent nonretail or exchange of such merchandise as used merchandise;

(4) The acceptance or receipt of merchandise in used condition as a return, trade-in, exchange or for credit or refund if such merchandise was originally purchased as new merchandise from the person accepting or receiving the same, nor to the first subsequent nonretail sale or exchange of such merchandise;

(5) The first sale, at retail, of merchandise which has been rebuilt by the manufacturer or vendor originally manufacturing it, or the licensed agents thereof, and sold as factory rebuilt merchandise;

(6) A thrift shop, as defined to be so classified under the United States Internal Revenue Code, entitled to an exemption as an eleemosynary corporation or institution;

(7) Antiques, which shall mean secondhand articles over fifty (50) years of age, having a value of less than two hundred fifty dollars ($250.00), and void of any means of identification. Identification shall mean articles which are serialized, monogrammed, initialed or distinctly marked.

(c) *Proof.* The burden of proof that an article was originally purchased from the person accepting or receiving it, that it was the first subsequent sale or exchange thereof to a person other than an ultimate consumer, or that it was a first sale at retail of such factory rebuilt merchandise, shall be upon the person asserting the same. Evidence of an existing trade practice in the city, if any, shall be admissible for the purpose of determining whether or not merchandise is in new or used condition.

(d) *Interpretation.* In interpreting and applying the provisions of this article, the rule of interpretation applicable to remedial legislation shall be used so that the spirit and intent of this article shall be observed. All provisions shall be:

(1) Considered as minimum requirements; and

(2) Deemed neither to limit nor repeal any other powers granted to the city under New York state statutes.

(e) *Severability.* If any clause, sentence, section, paragraph or provision of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this article, but shall be confined in its operation to the clause, sentence, section, paragraph or provision directly involved in the controversy in which such judgment shall have been rendered.

(f) *Disclaimer of liability.* This article shall not create any liability on the part of the city, its officers, agents or employees, nor the Long Beach police department, its officers, agents or employees, for any act or damage caused as a result of reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-261. License required.

(a) It shall be unlawful for any person to act as a dealer in secondhand articles without a license therefor.

(b) There shall be three (3) types of licenses:

(1) *General license.* A general license shall authorize the licensee to act as a secondhand dealer with respect to all articles, other than secondhand automobiles, within the city during the license period specified in this article.

(2) *Management license.* A management license shall authorize the licensee, who is not a dealer in antiques or unique secondhand articles, to operate and manage an antique or unique secondhand articles exposition where such antiques or unique secondhand articles are sold at any fair, show or exhibit or any place where this merchandise is offered for sale within the city during a period of one month from the date of issuance of such license.

(3) *Exposition license.* An exposition license shall authorize a dealer in antiques or unique secondhand articles who maintains no place of business within the city to exhibit and sell such articles at any fair, show or exposition within the city during a period of one month from the date of issuance of such license.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-262. Bonds, fees; term; conditions of licenses.

(a) Each dealer securing a general license shall furnish a bond to the city with sufficient surety to be approved by the city clerk, in the penal sum of two thousand dollars ($2,000.00), conditioned for the due observance of the law relating to such dealers.

(b) Each manager of an antique or unique articles exposition shall furnish a bond to the city with sufficient surety to be approved by the city clerk, in the penal sum of two thousand dollars ($2,000.00), conditioned for the due observance of the law relating to dealers are exhibitors at the exposition.

(c) The annual license fee for licenses shall be as follows:

(1) General license fee shall be seventy-five dollars ($75.00);

(2) Management license fee shall be fifty dollars ($50.00);

(3) Exposition license fee shall be twenty-five dollars ($25.00).

(d) All general licenses shall expire on the last day of November next succeeding the date of issuance thereof, unless sooner revoked or suspended. A new application for a license must be made yearly if the licensee desires to continue such activity.

(e) All licenses shall be placed and at all times displayed in a conspicuous place at the licensee's place of activity or business for which it is issued.

(f) All licenses are personal with the licensees. It does not go with title to the land or business, nor may it be sold, assigned, transferred or disposed of.

(g) Any license may be revoked or suspended by the city clerk pursuant to the provisions of section 14-274 hereof.

(h) The granting, refusal, revocation or suspension of any license by the city clerk shall be subject to review by certiorari after applicant or licensee has exhausted all administrative remedies.

(Ord. No. 1411/80, § 1, 3-4-80; Ord. No. 1555/84, § 6, 10-16-84)

Sec. 14-263. Application for license.

Applicants for a license under this article must file with the city clerk an application, supplied by the city clerk, containing the following information:

(a) Name and description of the applicant. Individuals operating under a trade name must present a certified copy of the trade name certificate filed in the Nassau County clerk's office. A partnership conducting

business, whether or not under a trade name, must submit a certified copy of the partnership certificate filed in the Nassau County clerk's office when partnership was formed. A New York corporation must furnish a photostatic copy of the filing receipt for the certificate of incorporation from the New York state secretary of state. A corporation incorporated outside New York state must furnish a photostatic copy of its application for authority to do business in New York state from the New York state secretary of state;

(b) Address of applicant (local and legal);

(c) That the applicant is of legal age;

(d) That the applicant is a citizen of the United States and whether citizenship was obtained by birth or naturalization. If by naturalization, the date and place where obtained. The naturalization certificate or permanent board of elections personal registration card may be used as proof of citizenship;

(e) A statement as to whether or not the applicant has ever been convicted of or is now under charge of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor, and such other facts or evidence as is deemed necessary to establish that the applicant is a person fit and capable of properly conducting the activity or business for which the license is sought;

(f) A description of the exact type of business the applicant intends to conduct;

(g) The name and address of the owner or owners of the land or premises and the nature of the right of occupancy of the applicant to the use of such land or premises.

(h) Two (2) photographs of the applicant, taken not more than sixty (60) days prior to the filing of the application, which photographs shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner;

Two (2) photographs and fingerprints are required of each individual applicant; two (2) photographs and fingerprints are required of each partner; no photographs are required of corporate applicants, but fingerprints of all officers, as well as any stockholder of ten (10) per cent or more of the stock, are required;

(i) If the applicant is a corporation, the names, addresses and titles of the officers of the corporation upon whom process or other legal notices may be served.

(j) A copy of the applicant's fingerprints shall be mailed to the division of criminal justice services, Albany, New York, requesting a fingerprint search. The city clerk shall secure from the applicant the required fee for such search in the form of a check or money order made payable to the "New York State Division of Criminal Justice Services."

Sec. 14-263. Application for license.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-264. Issuance of license.

(a) Upon receipt of the license application and compliance with the requirements of this article, and upon the approval by the city clerk and the payment of the prescribed fees by and bonds required of the applicant, the city clerk shall prepare and deliver to the applicant his license.

(b) Every license issued hereunder shall be signed at the direction and in the name of the city clerk and sealed with the seal of the city.

(c) The city clerk shall keep a record of all licenses issued, as well as any other matters herein described.

(d) No license shall be granted under this article to any dealer in secondhand articles:

(1) Who has been convicted of any offense which, under the laws of the State of New York, constitutes a crime involving moral turpitude;

(2) Who has been found by any court of the state to have practiced any fraud, deceit or misrepresentation in the conduct of the secondhand dealer business unless the city clerk, after approval of the city manager, shall decide in any particular case upon the facts there presented that it is proper to issue the license applied for;

(3) Whose license under this article has been revoked at any time during the year prior to the time of the application for the license; or

(4) Whose license has been suspended under this article, and the period of such suspension has not expired at the time of this application for the license.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-265. Report to the Long Beach police commissioner.

Every dealer in secondhand articles shall furnish to the police commissioner or his agent, at such time, in such manner and at such intervals as shall be specified by the police commissioner, all information requested by the police commissioner relative to all records required to be kept under this article. Such information shall be supplied on forms to be designated and supplied by the police commissioner. Duly licensed dealers in antiques shall furnish daily reports of purchases of secondhand articles within seventy-two (72) hours.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-266. Restrictions.

(a) It shall be unlawful for any dealer in secondhand articles to engage in selling activities at any place other than the place of business designated in such license.

(b) It shall be unlawful for any dealer in secondhand articles to purchase any

secondhand goods or things from any person whom he knows to be or has reason to believe is a minor.

(c) With the exception of duly licensed dealers in antiques, it shall be unlawful for any dealer in secondhand articles to purchase any secondhand goods or articles from any person between the hours of 10:00 p.m. and 7:00 a.m.

(d) It shall be unlawful for any dealer in secondhand articles to sell or dispose of any secondhand articles, except articles purchased from another duly licensed secondhand dealer, until the expiration of fifteen (15) business days after the acquisition by such dealer of such articles. Duly licensed dealers in antiques may sell or dispose of secondhand articles within a period of time less than the expiration of the said fifteen (15) days mentioned above, provided the required record of purchases and sales are met pursuant to section 14-269 hereof.

(e) It shall be unlawful for any dealer in secondhand articles to be licensed as a pawnbroker or to engage in the business of a pawnbroker; nor shall any sign or emblem be displayed by any such dealer in or about the premises where such business is conducted which in any way resembles the sign or emblem commonly used by pawnbrokers, or which is intended to give the appearance that the business conducted on such premises is, or is connected with, the business of a pawnbroker.

(f) It shall be unlawful for any person licensed as a secondhand dealer to deal in the purchase or sale of any junk, old rope, old iron, brass, copper, tin, lead, rubber, paper, rags, bagging, slush or empty bottles, or employ or use a boat, cart, or other vehicle for the purpose of collecting any such things or materials, unless he is also duly licensed as a junk dealer.

(g) It shall be unlawful for any person licensed as a secondhand dealer to deal in the purchase or sale of secondhand motor vehicles or parts therefrom, the processing of used metals for resale and the dumping, storage, burning and disposal of waste, secondhand or used materials of whatever composition, unless he is also duly licensed as a junk dealer.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-267. Signs and labels.

Every person licensed as a dealer in secondhand articles, who also sells new articles within the licensed premises, shall label all new articles and/or post signs in such manner that the public will be informed of the nature of such articles.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-268. Lost or stolen property.

(a) If any articles shall be advertised in any newspaper printed in the County of Nassau as having been lost or stolen, and if any goods or articles answering such advertised description or any part thereof shall be in or come into the possession of any dealer in secondhand articles, having received actual written or oral notice of the similarity of description of such article, such dealer shall immediately give information relating thereto to the Long Beach police commissioner or his agent. No disposition of such articles shall be effected until

authorization to do so shall be given to such dealer by the police commissioner or his authorized agent. A dealer in secondhand articles, when notified by the commissioner of police or his agent that property in his possession is stolen or alleged to be stolen, shall take immediate steps to secure that property, and it shall be marked "police stop." Thereafter, such property shall not be sold or removed form the premises until notification is made to the dealer in writing by the Long Beach police commissioner or his agent allowing such removal or sale.

(b) Every dealer in secondhand articles who shall have or receive any articles alleged or supposed to have been lost or stolen, shall exhibit the same, on demand, to the Long Beach commissioner of police, or any authorized inspector of licenses, to any police officer, or to any person duly authorized in writing by the commissioner of police to examine such articles who shall exhibit such written authority to the dealer.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-269. Record of purchases and sales.

(a) Every dealer in secondhand articles shall keep a bound book in a form prescribed by the Long Beach commissioner of police, of consecutively numbered transactions, in which shall be legibly written in English, at the time of every purchase or sale to or from a person other than a dealer in secondhand articles, a description of every secondhand article so purchased or sold, the number or numbers and any monograms, inscriptions or other marks of identification that may appear on such article, a description of the articles or pieces comprising old gold, silver, platinum, other metals or coins, stamps or currency, and any monogram, inscription or marks of identification thereon, the name, residence address and date of birth of the person from whom such purchase was made and the day and hour of the purchase.

(b) Every dealer in secondhand articles who receives secondhand articles on consignment shall keep a record, in the above-prescribed book, describing the articles and the name and description of the person or dealer such items are received from.

(c) As between dealers, all transactions shall be recorded in the above-prescribed book and legible records kept describing the articles, including a detailed description of all jewelry and costume jewelry.

(d) Such books shall be kept on the business premises of the secondhand dealership or at the place designated on the duly approved license at all times during normal business hours. Such books shall be open to the inspection of any police officer, to the commissioner of police, or any inspector of licenses, or any person duly authorized in writing for such purposes by the commissioner of police who shall exhibit such written authority to the dealer.

(e) Duly licensed dealers in antique article shall keep a record of bulk purchases in the bound book, noting the invoice number on each bulk purchase. All identifiable secondhand articles which are part of the bulk purchase shall be entered individually in the ledger book and reported individually to the Long Beach police commissioner within seventy-two (72) hours after such bulk purchase.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-270. Identity of person from whom purchase is made.

(a) It shall be the duty of every secondhand dealer to verify the identity of every person from whom he purchases an article, and to make and keep a written record of the nature of the evidence submitted by such person to prove his identity.

(b) Only the following shall be deemed acceptable evidence of identity:

(1) Any official document, except a social security account number card, issued by the United States government or any state, county, municipality or subdivision thereof or any public agency or department thereof, or any public or private employer, which requires and bears the signature of the person to whom issued;

(2) Other identification documentation which, under the circumstances of any particular purchase, would lead a reasonable man to believe to be accurate and reliable, when identification under subdivision (1) hereof is not available.

(c) It shall be the duty of every dealer in secondhand articles to require that every person from whom an article is purchased sign his name in the presence of the secondhand dealer, and to compare the signature with the signature on the identifying document, if any, and retain on his premises the person's signature together with the number and description of the identifying document, if any.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-271. Penalties for offenses; other remedies.

(a) Failure to comply with the provisions of section 14-261 hereof entitled, "License required," shall constitute a class A misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000.00), or imprisonment for a period not exceeding one year, or by both such fine and imprisonment.

(b) Failure to comply with the other sections of this article shall constitute a violation and shall be punishable by a fine not exceeding two hundred fifty dollars ($250.00), or imprisonment for a period not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense shall constitute a separate distinct violation hereunder for each day the offense is continued.

(c) In addition to the penalties provided above, any offense against the provisions of this article shall subject the person committing the offense to a civil penalty in the amount of one thousand dollars ($1,000.00) for each day that the offense shall continue, collectible by and in the name of the city.

(d) Conviction for any offense against the provisions of this article shall constitute and effect an immediate forfeiture of the license.

(e) In addition to the above-provided penalties and punishment, the city also may maintain an action or proceeding in the name of the city in a court of competent jurisdiction to compel compliance with the provisions of this article or to restrain by injunction an offense against this article.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-272. Duty of police to enforce.

It shall be the duty of any police officer of the city to require any person seen dealing in secondhand articles who is not known by such police officer to be duly licensed to produce or display his secondhand dealer's license, and to enforce the provisions of this article against any person found to be violating the same.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-273. Report of violations.

The city clerk shall record all convictions for violations of this article which are officially brought to her attention by any authorized agency or person.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-274. Revocation or suspension of license.

(a) A license issued under the provisions of this article may be revoked or suspended by the city clerk for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for the license;

(2) Any violation of this article;

(3) Conviction of any crime or offense involving moral turpitude;

(4) Conducting the activity as a dealer in secondhand articles in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(b) Notice of revocation or suspension of a license shall be given promptly in writing, setting forth specifically the grounds of the complaint. Such notice shall be mailed postage prepaid, to the licensee at his last known address, or in the alternative, may be delivered to him in person.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-275. Appeals.

(a) The holder of any license which has been suspended or revoked and any applicant who shall have been denied a license under this article may apply for a review of the action of the city clerk as hereinafter provided:

(1) Application shall be in writing, signed and acknowledged by the applicant, and shall state the ground or grounds on which the applicant claims that the determination of the city clerk was erroneous;

(2) Application shall be filed with the city clerk by the applicant within twenty (20) days after notice of denial of his application or notice of suspension or revocation of his permit by the city clerk has been mailed to him or delivered to him in person;

(3) Upon the filing of such application, a hearing shall be held thereon pursuant to the provisions of section 14-276 hereof;

(4) At such hearing the hearing officer shall consider the applicant's application upon the record before the city clerk in connection with the city clerk's consideration thereof, and in his discretion receive new or additional evidence in support thereof or in opposition thereto.

(b) The hearing officer, after such hearing, may affirm or reverse the action of the city clerk or direct the city clerk to issue a proper license pursuant to this article.

(Ord. No. 1411/80, § 1, 3-4-80)

Sec. 14-276. Hearings.

Whenever it shall be provided herein that a hearing shall or may be held with respect to any matter:

(a) Such hearing shall be held on a date, at a place and hour designated by the city manager.

(b) The city clerk shall give notice thereof, stating the name and address of the applicant or license holder concerned, the subject matter of the hearing and the date, place and hour thereof designated, by mailing a copy thereof to the applicant or license holder concerned, at the address shown on the most recent application of such applicant or licensee, at least ten (10) days before such hearing.

(c) If an applicant or licensee requests a hearing, the city manager shall designate any disinterested person to conduct said hearing as a hearing officer.

(d) The applicant or license holder involved shall be entitled to be represented by legal counsel and to present such competent and material testimony or other evidence in his own behalf as may be relevant to the subject matter of the hearing.

(e) All witnesses shall be sworn and examined under oath, and a record of all proceedings shall be made and filed in the office of the city clerk.

(Ord. No. 1411/80, § 1, 3-4-80)

Secs. 14-277--14-279. Reserved.

ARTICLE XIII. GARAGE, YARD AND TAG SALES

Sec. 14-280. Definitions.

As used in this article, the following terms shall have the respective indicated meanings:

City shall mean the City of Long Beach, New York.

Goods shall include any goods, household merchandise, apparel or other personal property capable of being the object of a tag sale, as hereinafter defined.

Person shall include individuals, partnerships, voluntary associations and corporations.

Tag sale shall include any sale entitled or usually described as a "garage sale," "yard sale," "tag sale," "lawn sale," "attic sale," "basement sale," "rummage sale" or "flea market sale," or any similar casual sale of tangible personal property held in an area or district, the zoning for which does not permit a business use.

(Ord. No. 1532/84, § 1, 3-6-84)

Sec. 14-281. Permit required; fee.

It shall be unlawful for any person to conduct a tag sale in the city without first filing with the city clerk in writing the information hereinafter specified and obtaining from such city clerk a permit to do so, to be known as a "tag sale permit." There shall be no fee charged for such permit.

(Ord. No. 1532/84, § 1, 3-6-84)

Sec. 14-282. Requirements.

(a) Such permit shall be issued for the same location no more than once within a six-month period, and no such permit shall be issued for more than two (2) consecutive calendar days.

(b) Each permit issued under this article must be prominently displayed on the premises upon which the tag sale is conducted throughout the entire period of the sale.

(Ord. No. 1532/84, § 1, 3-6-84)

Sec. 14-283. Information to be filed.

The information to be filed with the city clerk pursuant to this article shall be as follows:

(a) Name of persons, firm, group, corporation, association or organization conducting said sale.

(b) Name of the owner of the property on which said sale is to be conducted and the consent of the owner if the applicant is other than the owner.

(c) Address and location at which the sale is to be conducted.

(d) Date or dates of the sale.

(e) Date and nature of any past sale, at the same address.

(f) Relationship or connection the applicant may have had with any other person, firm, group, organization, association or corporation conducting said previous sale.

(g) Whether or not the applicant has been issued any other vendor's license or permit by any local, state or federal agency.

(h) Sworn statement or affirmation by the applicant that the information therein given is full and true and known to him to be so.

(Ord. No. 1532/84, § 1, 3-6-84)

Sec. 14-284. Hours of sale.

All tag sales shall be conducted between the hours of 9:00 a.m. and 6:00 p.m. only.

(Ord. No. 1532/84, § 1, 3-6-84)

Sec. 14-285. Signs.

(a) No more than two (2) signs advertising such sale, each of which is no larger than twenty-four (24) by twelve (12) inches in size, shall be permitted. All such signs must be posted on the premises where such sale is conducted and must contain the name and address of the person conducting the sale. Sale signs must be removed within twenty-four (24) hours after the completion of the sale.

(b) No sign or signs or other advertisement of such sale shall be attached to any pole or other object in any public place other than on the premises where the sale is to be held.

(c) In the event that any advertisement of such sale shall be posted in any public place in violation of the foregoing subsection (b), it shall be presumed that the owner of the premises where the sale is to be held or his designated agent caused such advertisement to be so posted.

(Ord. No. 1532/84, § 1, 3-6-84)

Cross references: Temporary signs, § 3-119 et seq.

Sec. 14-286. Persons and sales exempted.

The provisions of this article shall not apply to or affect the following persons or sales:

(a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

(b) Persons acting in accordance with their powers and duties as public officials.

(c) Any person selling pursuant to a published advertisement of such sale only an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed ten (10) in number.

(d) Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization; provided, however, that the burden of establishing the exemption under this subsection shall be on the organization or institution claiming such exemption.

(Ord. No. 1532/84, § 1, 3-6-84)

Sec. 14-287. Responsibility for good order.

The person to whom such permit is issued and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such person shall permit any loud or boisterous language or conduct on said premises nor permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such persons shall obey the reasonable orders of any member of the police department or fire department of the city in order to maintain the public health, safety and welfare.

(Ord. No. 1532/84, § 1, 3-6-84)

Cross references: Obstruction of streets with merchandise, § 23-3, sales on public ways, § 23-5.

Sec. 14-288. Right of access for inspection; arrest authority.

Any police officer or any other official authorized to make inspections, shall have the right of entry to any premises showing evidence of a tag sale for the purpose of enforcement or inspection and may close the premises from such a sale and/or arrest and/or issue a summons to any person who violates the provisions of this article.

(Ord. No. 1532/84, § 1, 3-6-84)

Sec. 14-289. Penalties for offenses.

(a) Any person who shall violate any of the provisions of this article shall be subject to a fine of not more than one hundred dollars ($100.00) or by imprisonment not exceeding fifteen (15) days, or both such fine and imprisonment, for each day such violation shall occur, continue or exist.

(b) Any person who shall violate any of the provisions of this article after having been previously convicted of violating any provision of this article shall be subject to a fine of not more than two hundred fifty dollars ($250.00) or by imprisonment not exceeding thirty (30) days, or both such fine and imprisonment, for each day such subsequent violation shall occur, continue or exist.

(Ord. No. 1532/84, § 1, 3-6-84)

Secs. 14-290--14-299. Reserved.

ARTICLE XIV. BARS, TAVERNS, NIGHTCLUBS AND OTHER ESTABLISHMENTS

Sec. 14-300. Legislative intent.

The city council has heard numerous complaints and has witnessed increasing evidence of rowdyism, vandalism, hooliganism and loud and boistrous conduct disturbing the peace and tranquility of the city and its residents, resulting from the proliferation of drinking establishments in the city, and has determined to curb the situation and keep it within reasonable bounds by limiting the number of such establishments to those presently existing in the city.

(Ord. No. 1587/86, § 1, 3-18-86)

Sec. 14-301. Only renewal licenses to be issued for drinking establishments.

From and after the enactment of this article, the city clerk shall not issue any license to conduct or operate a bar, grill, tavern, nightclub, supper club, dance hall, place of public entertainment or other establishment serving alcoholic beverages for on-premises consumption, excepting only renewals of duly issued and existing licenses; and excepting also that a license may be issued to a qualified applicant who is the purchaser or assignee of such a duly licensed and existing establishment; provided, however, that new licenses may be issued for full-service restaurants having only a service bar not to exceed ten (10) feet in length, to deliver drinks to employees only for service to diners at tables without any seats or stools at such bar.

(Ord. No. 1587/86, § 1, 3-18-86)

Sec. 14-302. Reserved.

Editor's note: Ord. No. 1723/90, § 1, adopted May 23, 1990, repealed § 14-302, business hours of convenience stores, in its entirety. Former § 14-302 derived from Ord. No. 1634/87, § 1, adopted August 4, 1987.

Secs. 14-303--14-309. Reserved.

ARTICLE XV. SPECIAL EVENTS

Sec. 14-310. Legislative intent.

This article has been enacted to protect the residents of the City of Long Beach and the public at large from nuisances and hazards which can result from the unregulated operation of bazaars, carnivals, circuses, fairs and other amusements of a similar type.

(Ord. No. 1613/86, § 1, 12-16-86)

Sec. 14-311. Definitions.

As used in this article the following words and phrases shall have the meanings assigned:

Amusement ride. Any kind of machine, apparatus or device which is designed or used to propel, project or move a person through the air, along the ground or otherwise, and shall include a carousel, Ferris wheel, gravity steeplechase, scenic railway, parachute jump and other similar machinery and rides customarily associated with amusements or carnivals.

Building. As used herein, in addition to its usual definition, shall include tents and a permanent stadium or arena.

Charitable or religious event or activity. Any special event conducted by a charitable or nonprofit organization which is either duly registered or exempt from registration with the Board of Social Welfare of the State of New York in accordance with the provisions of the Social Welfare Law, or by a religious corporation or property owned or leased by it for its own charitable fund-raising purposes and utilizing its own members as operating personnel and conducted in compliance with all rules and regulations of the State of New York, or any subdivision thereof, and the applicable provisions of this article.

City. The land area located within the boundary of the City of Long Beach under the jurisdiction of the Long Beach city council.

City clerk. The city clerk of the City of Long Beach.

Person. Any individual, firm, partnership, corporation, association, company or organization of any kind.

Special event. Any bazaar, carnival, circus, fair, freak show, pony track, rodeo or other amusement of like kind and nature.

Special event license. A license, permit or instrument granted or issued by the city clerk pursuant to the provisions of this article.

(Ord. No. 1613/86, § 1, 12-16-86)

Sec. 14-312. License required.

It shall be unlawful to conduct a special event in the city unless there is

compliance with the following provisions:

(a) A special event license issued by the city clerk shall be required in order for any person to conduct a special event, except that no such license shall be required for a charitable or religious event or activity conducted wholly within a building which complies with the provisions of the building and zoning requirements of the City's Code of Ordinances and the laws, rules and regulations relating to places of public assembly.

(b) Amusement rides, as a temporary facility not to exceed ten (10) days' duration, shall be permitted in any special event, including a charitable or religious event or activity, only upon compliance with the following:

(1) Application to the city's building commissioner for approval of said amusement rides, together with a filing fee of one hundred twenty dollars ($120.00).

(2) Amusement rides shall not exceed six (6) per acre of vacant land.

(3) Compliance with the applicable provisions of the New York State Labor Law and Industrial Board.

(4) Compliance with the applicable provisions of the city's Code of Ordinances.

(c) Nothing contained in this article shall apply to the structure known as the Long Beach Arena or the conduct of any special event or activity therein; but the requirements of this article shall be fully applicable to the grounds and parking areas adjacent to said Long Beach Arena.

(d) No special event shall be permitted in or upon any business, commercial or industrial property used or designated as a parking lot, public or private.

(Ord. No. 1613/86, § 1, 12-16-86)

Sec. 14-313. Application for license.

An application for a license to conduct a special event pursuant to the foregoing section 14-312 shall be in writing on a form prescribed by the city clerk and filed with the city clerk not less than ten (10) days before the special event, and shall contain at least the following:

(a) The proposed location of the special event; the dates when the special event shall be conducted; the name(s) and address(es) of the sponsor(s) and the operator(s).

(b) The written permission of the property owner.

(c) Proof of comprehensive liability insurance covering the property owner, the sponsor, the operator and the city, with the following minimum coverages:

(1) Bodily injury: Five hundred thousand dollars ($500,000.00) for each person; one million dollars ($1,000,000.00) for each accident.

(2) Property damage: One hundred thousand dollars ($100,000.00) for each accident.

(d) The written approval of the Long Beach building commissioner for any temporary pavilion, tent or other temporary enclosure.

(e) The posting of a cash bond of five hundred dollars ($500.00) to guarantee cleanup by the exhibitor or operator after the special event, except where the special event is conducted on premises owned by the person making the application.

(Ord. No. 1613/86, § 1, 12-16-86)

Sec. 14-314. Closing hour.

No special event shall be operated beyond or after 11:00 p.m.

(Ord. No. 1613/86, § 1, 12-16-86)

Sec. 14-315. Dismantling or removal of equipment.

No equipment used in connection with a special event shall be dismantled or removed after 12:00 o'clock midnight.

(Ord. No. 1613/86, § 1, 12-16-86)

Sec. 14-316. Noise.

The provisions of Chapter 16 of the Long Beach Code of Ordinances, entitled "Noise," shall be applicable to every special event, including charitable and religious events and activities.

(Ord. No. 1613/86, § 1, 12-16-86)

Sec. 14-317. Penalties for offenses.

(a) Any person who violates any provision of this article shall be guilty of a violation punishable by a fine not exceeding two hundred fifty dollars ($250.00) or imprisonment for a period not exceeding fifteen (15) days, or by both such fine and imprisonment, for each such offense.

(b) In the event of a continuing violation, each day such offense continues shall constitute a separate additional violation.

(c) In addition to the foregoing penalties, the license or licenses issued for the special event shall be subject to revocation by the issuing city official or officials.

(Ord. No. 1613/86, § 1, 12-16-86)

Secs. 14-318--14-324. Reserved.

ARTICLE XVI. NEWSRACKS

Sec. 14-325. Legislative findings, intent and purpose.

The city council of the City of Long Beach finds and declares that:

(a) The uncontrolled placement of newsracks in public rights-of-way presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services.

(b) Newsracks so located as to cause an inconvenience or danger to persons using public rights-of-way, and unsightly newsracks located therein, constitute public nuisances.

(c) It is a matter of public necessity that the City of Long Beach protect children and unconsenting adults in and on its public streets, sidewalks, transportation facilities and other public rights-of-way from viewing public displays of offensive sexual material. Such displays are thrust indiscriminately upon unwilling audiences of adults and children and constitute assaults upon individual privacy.

(d) The provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, morals and general welfare of persons in the City of Long Beach in their use of public rights-of-way.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-326. Definitions.

As used in this article, the following terms shall have the respective indicated meanings:

Distributor shall mean the person responsible for placing and maintaining a newsrack in a public right-of-way.

Newsrack means any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale of newspapers or other news periodicals.

Nudity means the showing with less than a fully opaque covering of the genitals, pubic hair, buttocks, natal cleft, perineum, anus or anal region of any person, other than a child under the age of puberty, or any portion of the breast at or below the areola thereof of a female person, other than a child under the age of puberty, or the depiction of covered male genitals in a discernibly turgid state.

Offensive means that the work in which the representations appear, taken as a whole, appeals to the prurient interest and patently depicts or portrays the prohibited sexually explicit material in a manner which, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Parkway means that area between the sidewalks and the curb of any street, and

where there is no sidewalk that area between the edge of the roadway and property line adjacent thereto. Parkway shall also include any mall or area within a roadway which is not open to vehicular travel.

Pictorial material means any material suggesting or conveying a visual image, and includes, but is not limited to, a photograph, painting or drawing.

Roadway means that portion of a street improved, designed, or ordinarily used for vehicular travel.

Sexually explicit material means any pictorial material depicting human sexual intercourse, human or animal masturbation, bestiality, oral intercourse, anal intercourse, human-animal intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person in the context of a sexual relationship or sexual stimulation. The material shall be judged without regard to any covering which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definitions of this section. Works of art or of anthropological significance are not included within the definitions of this section.

Sidewalk means any surface provided for the exclusive use of pedestrians.

Street means all that area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, malls, parkways, alleys and sidewalks.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-327. Permit--Required.

It shall be unlawful for any person, firm or corporation to erect, place, maintain or operate, on any public street or sidewalk, or in any other public way or place, in the City of Long Beach any newsrack without first having obtained a permit from the city clerk specifying the exact location of such rack(s). One permit may be issued to include any number of newsracks, and shall be signed by the applicant.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-328. Same--Application.

Application for such permit shall be made, in writing, to the city clerk upon such form as shall be provided by her, and shall contain the name and address of the applicant, the proposed specific location of said newsrack, and shall be signed by the applicant.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-329. Same--Conditions.

(a) As an express condition of the acceptance of such permit, the permittee thereby agrees to indemnify and save harmless the city, its officers, directors, and employees against any loss or liability or damage, including expenses and costs for bodily or personal injury, and for property damage sustained by any person as the result of the installation, use, or maintenance of a newsrack within the City of Long Beach.

(b) The permittee shall furnish, at the permittee's expense, a public liability insurance policy which will protect the permittee and the city from all claims for bodily injuries and/or property damage, including death, which may arise from the placement and/or operation of any newsrack of the permittee, and such policy shall name the City of Long Beach as an additional insured, and shall be in an amount not less than five hundred thousand dollars ($500,000.00) combined single limit for any injury to persons and/or damaged property, and shall provide that the insurance coverage shall not be cancelled or reduced by the insurance carrier without thirty (30) days' prior written notice to the city. A certificate of such insurance shall be provided to the city before the issuance of a permit and shall be maintained by the permittee in full force and effect at all times after the issuance of the permit.

(c) Permits shall be issued for the installation of a newsrack or newsracks without prior inspection of the location but such newsrack or newsracks and the installation, use or maintenance thereof shall be conditioned upon observance of the provisions of this article and such reasonable rules and regulations as may be established by the city manager. Permits shall be issued within twenty-four (24) hours after the application has been filed. An annual permit fee of fifteen dollars ($15.00) is required for each newsrack.

(d) Such permits shall be valid for one year and shall be renewable pursuant to the procedure for original applications, referred to in section 14-328 and upon payment of the fifteen dollars ($15.00) permit fee for each newsrack.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-330. Standards for maintenance and installation.

Any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway, shall comply with the following standards:

(a) No newsrack shall exceed five (5) feet in height, thirty (30) inches in width, or two (2) feet in thickness.

(b) No newsrack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale, or purchase of the newspaper or news periodical sold therein.

(c) Each newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event he is unable to receive the publication paid for. The coin-return mechanisms shall be maintained in good working order.

(d) Each newsrack shall have affixed to it a readily visible place so as to be seen by anyone using the newsrack a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction, or to secure a refund in the event of a malfunction of the coin-return mechanism, or to give the notices provided for in this chapter.

(e) Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

(1) It is reasonably free of dirt and grease.

(2) It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof.

(3) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon.

(4) The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration.

(5) The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading.

(6) The structural parts thereof are not broken or unduly misshapen.

(f) It shall be unlawful for any person to place or maintain any publication or material in newsracks which exposes to public view any pictorial material which depicts or appears to depict nudity or offensive sexually explicit material.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-331. Location and placement.

Any newsrack which rests in whole or in part upon, or on any portion of a public right-of-way or which projects onto, into, or over any part of a public right-of-way shall be located in accordance with the provisions of this section:

(a) No newsrack shall be placed, used or maintained which projects onto, into, or over any part of the roadway of any public street, or which rests, wholly or in part upon, along, or over any portion of the roadway of any public street.

(b) No newsrack shall be permitted to rest upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally marked or stopped vehicle, the ingress into or egress from any residence or place of business, or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near said location.

(c) No newsrack shall be chained, bolted, or otherwise attached to any fixture located in the public right-of-way, except to other newsracks.

(d) Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than eight (8) feet along a curb, and a space of not less than three (3) feet shall separate each group of newsracks.

(e) No newsrack shall be placed, installed, used or maintained:

(1) Within three (3) feet of any marked crosswalk.

(2) Within twelve (12) feet of the curb return of any unmarked crosswalk.

(3) Within five (5) feet of any fire hydrant, fire call box, police call box or other emergency facility.

(4) Within five (5) feet of any driveway.

(5) Within three (3) feet ahead or fifteen (15) feet to the rear of any sign marking a designated bus stop.

(6) Within three (3) feet of the outer end of any bus bench.

(7) At any location whereby the clear space for the passageway of pedestrians is reduced to less than six (6) feet.

(8) Within three (3) feet of or on any public area improved with lawn, flowers, shrubs, trees or other landscaping.

(9) Within one hundred (100) feet of any other newsrack on the same side of the street in the same block containing the same issue or edition of the same publication.

The provisions contained in subsection (e) of this section shall not apply if compliance with the provisions would prohibit the placement of newsracks for a distance of one hundred fifty (150) feet on the same side of the street in the same block.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-332. Violations.

Upon determination by the city manager that a newsrack has been installed, used or maintained in violation of the provisions of this article, an order to correct the offending condition will be issued to the distributor of the newsrack. Such order shall be telephoned to the distributor and confirmed by mailing a copy of the order by certified mail return receipt requested. The order shall specifically describe the offending condition and suggest actions necessary to correct the condition. Failure to properly correct the offending condition within three (3) days (excluding Saturdays, Sundays, and legal holidays) after the mailing date of the order shall result in the offending newsrack being summarily removed and processed as unclaimed property under provisions of Chapter 22 of this Code. If the offending newsrack is not properly identified as to owner under provisions of section 14-330(d) hereof, it shall be removed immediately and processed as unclaimed property under provisions of Chapter 22 of this Code. The city manager shall cause inspection to be made of the corrected condition or of a newsrack reinstalled after removal under this section. The distributor of said newsrack shall be charged a ten dollar ($10.00) inspection fee for each newsrack so inspected which charge shall be in addition to all other fees and charges required under this article and Chapter 22 of this Code.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-333. Revocation.

In addition to the enforcement procedures provided in section 14-332 of this article, it shall be within the power and discretion of the city manager to suspend or revoke the permit for continued or repeated violation or infractions of any provision of this article or of any rule, direction or regulation of the city manager. Suspension or revocation shall be mandatory for the third offense against section 14-332 of this article.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-334. City manager's designated representative.

"City manager" as used in this article shall include his designated representative.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-335. Abandonment.

In the event a newsrack remains empty for a period of thirty (30) continuous days, the same shall be deemed abandoned, and may be treated in the manner as provided in section 14-332 for newsracks in violation of the provisions of this article.

(Ord. No. 1661/88, § 2, 4-19-88)

Sec. 14-336. Separability.

If any section, subsection, sentence, clause, or phrase of this article is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article.

(Ord. No. 1661/88, § 2, 4-19-88)

Secs. 14-337--14-339. Reserved.

ARTICLE XVII. ATHLETIC EVENTS ON THE OCEAN BEACH PARK

Sec. 14-340. Legislative intent.

This article has been enacted to regulate the large number of organized athletic events that are conducted for a fee on the Ocean Beach Park.

(Ord. No. 1895/98, § 1, 5-19-98)

Sec. 14-341. Definitions.

As used in this article the following words and phrases shall have the assigned meanings:

Athletic event means any exercise or game requiring physical skill, strength or endurance.

Athletic event license means a license, permit or instrument granted or issued by the city clerk pursuant to the provisions of this article.

League means a group of the same individuals that form sports teams which meet regularly to play one another and must pay a fee to participate.

Ocean Beach Park means the land and improvements thereon, owned by the city, bounded as follows:

> On the north by the northerly line of the boardwalk as now, or hereafter, constructed and along an imaginary line being an extension thereof east and west to the easterly and westerly boundaries of the city; on the east and west by the easterly and westerly boundaries of the city; and on the south by the high waterline of the Atlantic Ocean; together with the property leased by the city for use as part of the Ocean Beach Park; and any land adjacent to the Ocean Beach Park owned by the city and duly designated as part of the Ocean Beach Park, are pursuant to authority granted by the Charter of the City and Local Law No. 4, of 1936, are hereby created a public park to be known as the "Ocean Beach Park of the City of Long Beach."

Person means any natural person, partnership, co-partnership, firm, business, company, corporation, limited liability corporation, agency, association, joint stock association or other legal entity.

Tournament means a championship series of games or athletic events conducted on a specific date and which participants must pay a fee to participate.

(Ord. No. 1895/98, § 1, 5-19-98)

Sec. 14-342. License requirements.

It shall be unlawful to conduct an athletic event which charges a fee to participate on the Ocean Beach Park unless an athletic event license has been obtained from the city clerk, except those events conducted or sponsored by the city.

(Ord. No. 1895/98, § 1, 5-19-98)

Sec. 14-343. Notification and scheduling with department of recreation.

Prior to applying for an athletic event license the applicant(s) must notify the superintendent of the recreation department or his/her designee of the proposed location, date(s) and hour(s) when the event will be conducted. The superintendent or his/her designee will provide the applicant(s) with a written confirmation of the location, date(s) and hour(s) of the event that must be attached to the license application.

(Ord. No. 1895/98, § 1, 5-19-98)

Sec. 14-344. Application for license.

An application for a license to conduct an athletic event which charges a fee to participate on the Ocean Beach Park shall be in writing, on a form prescribed by the city clerk and filed with the city clerk not less that ten (10) days before the event, and must contain at least the following:

(a) The proposed location of the event, the date(s) and hour(s) when the event will be conducted, the name(s), address(es), phone number(s) of the sponsor(s) and the operator(s).

(b) Proof of comprehensive liability insurance covering the sponsor, operator and the city, with the following minimum coverage:

(1) Bodily injury: Five hundred thousand dollars ($500,000.00) foreach person; one million dollars ($1,000,000.00) for each accident.

(2) Property damage: One hundred thousand dollars ($100,000.00) for each accident.

(c) Application fees:

(1) League license fee shall be one hundred fifty dollars ($150.00) per participating team. A league license shall be required and valid between the dates of May 1 and Labor Day of each year, unless sooner revoked or suspended. A new application for a license must be made yearly if the licensee desires to continue such activity.

(2) Tournament license fee shall be five hundred dollars ($500.00) per each day of the tournament. If said tournament date is postponed due to weather conditions a rain date can be made if available at no additional fee.

(3) No such license fee shall be required for an event conducted by a charitable or not-for-profit organization.

(d) The written confirmation of the superintendent of recreation or his/her designee as provided for in section 14-343.

(e) The written approval of the superintendent of recreation or his/her designee for any temporary pavilion, tent or other temporary enclosure.

(Ord. No. 1895/98, § 1, 5-19-98; Ord. No. 2051/10, § 1, 5-4-2010)

Sec. 14-345. Conditions of licenses.

(a) The licensee must comply with all the applicable provisions of the city's Code of Ordinances, including but not limited to the provisions of Chapter 16, entitled "Noise" and Chapter 18, Article II, entitled "Ocean Beach Park".

(b) The licensee must comply with all rules and regulations promulgated by the Long Beach lifeguards and the recreation department.

(c) All licenses shall be placed and at all times displayed in a conspicuous place at the location of the event for which it is issued.

(d) No license issued pursuant to this article shall be used by any person other than the original licensee and any holder of a license who permits it to be used by another person, and any person who uses a license granted to another pursuant to this article, shall be guilty of a violation of this article.

(Ord. No. 1895/98, § 1, 5-19-98)

Sec. 14-346. Penalties for offenses.

(a) Any person who violates any provision of this article shall be guilty of a violation punishable by a fine not exceeding one thousand dollars ($1,000.00) or imprisonment for a period not exceeding fifteen (15) days, or by both such fine and imprisonment for each such offense.

(b) In the event of a continuing violation, each day such offense continues shall constitute a separate additional violation.

(c) In addition to the foregoing penalties, the license issued for the athletic event shall be subject to suspension or revocation.

(Ord. No. 1895/98, § 1, 5-19-98)

Chapter 15 MOTOR VEHICLES AND TRAFFIC*

***Cross references:** Using vehicles for the purposes of a dwelling or for changing clothes, § 17-3; vehicles for hire, Ch. 24.

Art. I. In General, §§ 15-1--15-21
Art. II. Administration and Enforcement, §§ 15-22--15-104
Div. 1. Generally, §§ 15-22--15-35
Div. 2. Enforcement Proceedings, §§ 15-36--15-51
Div. 3. Traffic Division, §§ 15-52--15-65
Div. 4. Traffic Violations Bureau, §§ 15-66--15-83
Div. 5. Traffic Commission, §§ 15-84--15-91
Div. 6. Parking Commission, §§ 15-92--15-104
Art. III. Operation, §§ 15-105--15-132
Div. 1. Generally, §§ 15-105--15-118
Div. 2. Restrictions on Street Use, §§ 15-119--15-132
Art. IV. Parades and Processions, §§ 15-133--15-148
Art. V. Stopping, Standing and Parking, §§ 15-149--15-201
Div. 1. Generally, §§ 15-149--15-175
Div. 2. Resident Parking, §§ 15-176--15-179
Div. 3. Commuter Parking, §§ 15-180--15-185
Div. 4. Commercial Permit Parking, §§ 15-188--15-201
Art. VI. Motor Vehicles, §§ 15-202--15-212
Div. 1. Abandoned Vehicles, §§ 15-202--15-208
Div. 2. Immobilization and Removal of Illegally Parked Vehicles, §§ 15-209--15-214

ARTICLE I. IN GENERAL

Sec. 15-1. Definitions--Generally.

The definitions given in the New York State Vehicle and Traffic Law, section 100, shall be applied to the words therein defined whenever they are used in this chapter.

(Code 1957, § 8-102; Ord. No. 1160/73, § 1, 2-6-73)

Sec. 15-1.1. Same--Commercial vehicle.

The words "commercial vehicle" when used herein shall mean any vehicle, regardless of the type of plate displayed thereon, either horse drawn or motor driven, designed, used, constructed or equipped for the transportation of goods, wares or merchandise in trade or commerce or for the transportation of property.

(Code 1957, § 8-102.1; Ord. No. 1160/73, § 2, 2-6-73)

Sec. 15-1.2. Same--School car.

The words "school car" when used herein shall mean any vehicle, other than a school bus as defined in the New York State Vehicle and Traffic Law, that is customarily used to transport children, pupils, students and teachers to and from school.

(Ord. No. 1684/89, § 1, 1-3-89)

Sec. 15-2. State Vehicle and Traffic Law applicable.

The State Vehicle and Traffic Law applicable to cities is hereby declared to be included in this Code of Ordinances of the city.

(Code 1957, § 8-101)

Sec. 15-3. Use of coasters, roller skates and similar devices restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar devices, shall go upon any roadway except while crossing a street on a crosswalk, and, when so crossing, the person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street.

(Code 1957, § 8-111)

Sec. 15-4. Board or alighting from buses or other vehicles.

No person shall board or alight from any bus or other vehicle while the bus or vehicle is in motion.

(Code 1957, § 8-127.1)

Sec. 15-5. Uses of vehicles, bicycles and tricycles on pedestrian ways.

(A) No person shall ride, drive or otherwise propel any wagon, horse, cart, automobile, motorcycle, motorized bicycle, velocipede or other like vehicle or conveyance on or over any sidewalk, boardwalk, beach or other place reserved for the use of pedestrians or bathers with the city, except that nothing in this section shall be construed to prohibit driving or riding any vehicle across a sidewalk at a place set apart as a driveway, as an entrance to or exit from a building, providing that permission shall have been received from the proper city officials to maintain such driveway. Any provision herein contained to the contrary notwithstanding, bicycle riding (except motorized bicycle riding) and tricycle riding (except motorized tricycle riding) shall be permitted on the boardwalk in the center lane only. Pedestrians shall not walk in the center lane of the boardwalk, except to cross it from one side of the boardwalk to the other. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

(B) Any person violating any of the provisions of this section shall be liable for each offense to a fine of not less than two dollars ($2.00) nor more than two hundred fifty dollars ($250.00), or imprisonment for not more than fifteen (15) days, or both.

(Code 1957, §§ 6-203; Ord. No. 872, § 1, 1-9-68; Ord. No. 938, § 1, 10-7-69; Ord. No. 1124/72, § 1, 6-6-72; Ord. No. 1133/72, § 1, 7-11-73; Ord. No. 1218/74, § 1, 4-2-74; Ord. No. 1246, § 1, 8-6-74; Ord. No. 1253/74, § 1, 9-24-74; Ord. No. 1340/77, § 1, 6-21-77; Ord. No. 1662/88, § 1, 5-3-88; Ord. No. 1675/88, § 1, 7-19-88; Ord. No. 1678/88, § 1, 8-2-88)

Sec. 15-5.1. Persons propelling pushcarts or riding animals to obey traffic regulations.

Every person propelling any pushcart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

(Code 1957, § 8-110)

Sec. 15-6. Unlawful riding.

No person shall ride on any bus or other vehicle upon any portion thereof not designed or intended for the use of passengers. This section shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

(Code 1957, § 8-127.2)

Sec. 15-7. Establishment of traffic lanes.

(a) The city manager is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

(b) Where traffic lanes have been marked pursuant to subsection (a), it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

(Code 1957, § 8-119)

Sec. 15-8. Stop intersections established and enumerated.

The following intersections are hereby designated as "Stop" intersections. "Stop" signs shall be erected at appropriate places controlling traffic approaching said intersections from directions indicated. All traffic approaching "Stop" sign erected pursuant hereto, must come to a full stop before entering the intersection.

TABLE INSET:

INTERSECTIONS	TRAFFIC FLOW	LOCATION
E BAY DR & MONROE BLVD	N	SE
E BAY DR & MONROE BLVD	W	NE
E BAY DR & LINCOLN BLVD	N	SE
E BAY DR & FRANKLIN BLVD	E	SW
E BAY DR & FRANKLIN BLVD	E	NW
E BAY DR & NEPTUNE BLVD	E	NW
E BAY DR & NEPTUNE BLVD	E	SW
E BAY DR & NEPTUNE	W	NE
E STATE ST & MONROE BLVD	E	SW
E STATE ST & MONROE BLVD	N	SE
E STATE ST & MONROE BLVD	S	NW

E STATE ST & MONROE BLVD	W	NE
E STATE ST & LINCOLN BLVD	E	SW
E STATE ST & LINCOLN BLVD	S	NW
E STATE ST & LINCOLN BLVD	W	NE
E STATE ST & LINCOLN BLVD	N	SE
E STATE ST & FRANKLIN BLVD	E	SW
E STATE ST & FRANKLIN BLVD	W	NE
E STATE ST & FRANKLIN BLVD	S	NW
E STATE ST & FRANKLIN BLVD	N	SE
E STATE ST & NEPTUNE BLVD	E	SW
E STATE ST & NEPTUNE BLVD	W	NE
E STATE ST & NEPTUNE BLVD	S	NW
E STATE ST & NEPTUNE BLVD	N	SE
E HARRISON ST & LONG BEACH BLVD	W	NE
E HARRISON ST & MONROE BLVD	E	SW
E HARRISON ST & MONROE BLVD	N	SE
E HARRISON ST & MONROE BLVD	S	NW
E HARRISON ST & MONROE BLVD	W	NE
E HARRISON ST & LINCOLN BLVD	E	SW
E HARRISON ST & LINCOLN BLVD	N	SE
E HARRISON ST & LINCOLN BLVD	S	NW
E HARRISON ST & LINCOLN BLVD	W	NE
E HARRISON ST & FRANKLIN BLVD	E	SW
E HARRISON ST & FRANKLIN BLVD	N	SE
E HARRISON ST & FRANKLIN BLVD	S	NW
E HARRISON ST & FRANKLIN BLVD	W	NE
E HARRISON ST & NEPTUNE BLVD	E	SW
WATER ST & PARK PLACE	E	SW
WATER ST & PARK PLACE	W	NE
E PINE ST & PARK PLACE	N	SE
E PINE ST & PARK PLACE	S	NW
E PINE ST & RIVERSIDE BLVD	S	NW
E PINE ST & RIVERSIDE BLVD	E	SW
E PINE ST & MARGINAL RD	S	NW
E PINE ST & MONROE BLVD	E	SW
E PINE ST & MONROE BLVD	N	SE
E PINE ST & MONROE BLVD	S	NW
E PINE ST & LINCOLN BLVD	E	SW
E PINE ST & LINCOLN BLVD	N	SE
E PINE ST & LINCOLN BLVD	S	NW
E PINE ST & FRANKLIN BLVD	E	SW
E PINE ST & FRANKLIN BLVD	N	SE
E PINE ST & FRANKLIN BLVD	S	NW
E PINE ST & NEPTUNE BLVD	E	SW
E PINE ST & NEPTUNE BLVD	W	NE
E PINE ST & NEPTUNE BLVD	N	SE
E PINE ST & NEPTUNE BLVD	S	NW
E PINE ST & FORRESTER ST	E	SW

Sec. 15-8. Stop intersections established and enumerated.

E PINE ST & DOYLE ST	W	NE
E PINE ST & DOYLE ST	S	NW
E PINE ST & ARMOUR ST	S	NW
E PINE ST & KERRIGAN ST	N	SE
E PINE ST & KERRIGAN ST	E	SW
E PINE ST & DALTON ST	S	NW
E PINE ST & BOYD ST	N	SE
E PINE ST & BOYD ST	E	SW
E PINE ST & HERON ST	W	NE
E PINE ST & HERON ST	S	NW
E PINE ST & KIRKWOOD	N	SE
E PINE ST & KIRKWOOD	S	NW
E PINE ST & BARNES ST	S	NW
E PINE ST & FARREL ST	W	NE
E PINE ST & FARREL ST	E	SW
E PINE ST & FARREL ST	S	NW
E PINE ST & VINTON ST	N	SE
E PINE ST & VINTON ST	E	SW
E PINE ST & CLARK ST	S	NW
E PINE ST & CLARK ST	W	NE
E PINE ST & CURLEY ST	N	SE
E PINE ST & CURLEY ST	E	SW
E PINE ST & HARMON ST	S	NW
E FULTON ST & PARK PLACE	W	NE
E FULTON ST & PARK PLACE	N	SE
E FULTON ST & RIVERSIDE BLVD	N	SE
E FULTON ST & RIVERSIDE BLVD	S	NW
E FULTON ST & RIVERSIDE BLVD	W	NE
E FULTON ST & MONROE BLVD	N	SE
E FULTON ST & MONROE BLVD	W	NE
E FULTON ST & MONROE BLVD	S	NW
E FULTON ST & LINCOLN BLVD	N	SE
E FULTON ST & LINCOLN BLVD	W	NE
E FULTON ST & LINCOLN BLVD	S	NW
E FULTON ST & FRANKLIN BLVD	N	SE
E FULTON ST & FRANKLIN BLVD	W	NE
E FULTON ST & FRANKLIN BLVD	S	NW
E HUDSON ST & PARK PLACE	N	SE
E HUDSON ST & PARK PLACE	S	NW
E HUDSON ST & RIVERSIDE BLVD	E	SW
E HUDSON ST & RIVERSIDE BLVD	N	SE
E HUDSON ST & RIVERSIDE BLVD	S	NW
E HUDSON ST & MONROE BLVD	E	SW
E HUDSON ST & MONROE BLVD	N	SE
E HUDSON ST & MONROE BLVD	S	NW
E HUDSON ST & LINCOLN BLVD	E	SW
E HUDSON ST & LINCOLN BLVD	N	SE
E HUDSON ST & LINCOLN BLVD	S	NW

E HUDSON ST & FRANKLIN BLVD	E	SW
E HUDSON ST & FRANKLIN BLVD	N	SE
E HUDSON ST & FRANKLIN BLVD	S	NW
E HUDSON ST & NEPTUNE BLVD	E	SW
E HUDSON ST & NEPTUNE BLVD	N	SE
E HUDSON ST & NEPTUNE BLVD	S	NW
E MARKET ST & PARK PLACE	W	NE
E MARKET ST & PARK PLACE	N	SE
E MARKET ST & PARK PLACE	S	NW
E MARKET ST & MONROE BLVD	N	SE
E MARKET ST & MONROE BLVD	S	NW
E MARKET ST & MONROE BLVD	W	NE
E MARKET ST & LINCOLN BLVD	N	SE
E MARKET ST & LINCOLN BLVD	S	NW
E MARKET ST & LINCOLN BLVD	W	NE
E MARKET ST & FRANKLIN BLVD	W	NE
E MARKET ST & FRANKLIN BLVD	S	NW
E MARKET ST & FRANKLIN BLVD	N	SE
E MARKET ST & NEPTUNE BLVD	S	NW
E MARKET ST & NEPTUNE BLVD	N	SE
E CHESTER ST & RIVERSIDE BLVD	W	NE
E CHESTER ST & MONROE BLVD	N	SE
E CHESTER ST & MONROE BLVD	S	NW
E CHESTER ST & MONROE BLVD	E	SW
E CHESTER ST & LINCOLN BLVD	N	SE
E CHESTER ST & LINCOLN BLVD	S	NW
E CHESTER ST & LINCOLN BLVD	E	SW
E CHESTER ST & FRANKLIN BLVD	N	SE
E CHESTER ST & FRANKLIN BLVD	S	NW
E CHESTER ST & FRANKLIN BLVD	E	SW
E CHESTER ST & NEPTUNE BLVD	E	SW
E CHESTER ST & NEPTUNE BLVD	N	SE
E CHESTER ST & NEPTUNE BLVD	S	NW
E CHESTER ST & FORESTER ST	S	NW
E CHESTER ST & DOYLE ST	S	NW
E CHESTER ST & ARMOUR ST	S	NW
E CHESTER ST & DALTON ST *	S	NW
E CHESTER ST & HERON ST	S	NW
E CHESTER ST & ROOSEVELT BLVD	E	SW
E CHESTER ST & ROOSEVELT BLVD	N	SE
E CHESTER ST & BARNES ST	S	NW
E CHESTER ST & FARRELL ST *	S	NW
E CHESTER ST & PACIFIC BLVD	E	SW
E CHESTER ST & PACIFIC BLVD	N	SE
E CHESTER ST & CLARKE ST *	S	NW
E CHESTER ST & HARMON ST	S	NW
E CHESTER ST & CURLEY ST	E	SW
W WALNUT ST & GRAND BLVD	E	SW

Sec. 15-8. Stop intersections established and enumerated.

W WALNUT ST & GRAND BLVD	N	SE
W WALNUT ST & GRAND BLVD	S	NW
W WALNUT ST & LINDELL BLVD	E	SW
W WALNUT ST & LINDELL BLVD	N	SE
W WALNUT ST & LINDELL BLVD	S	NW
W WALNUT ST & WASHINGTON BLVD	N	SE
W WALNUT ST & WASHINGTON BLVD	S	NW
W WALNUT ST & WASHINGTON BLVD	E	SW
W WALNUT ST & LAFAYETTE BLVD	E	SW
W WALNUT ST & LAFAYETTE BLVD	N	SE
W WALNUT ST & LAFAYETTE BLVD	S	NW
W WALNUT ST & LAURELTON BLVD	E	SW
W WALNUT ST & LAURELTON BLVD	N	SE
W WALNUT ST & LAURELTON BLVD	S	NW
W WALNUT ST & MAGNOLIA BLVD	E	SW
W WALNUT ST & MAGNOLIA BLVD	N	SE
W WALNUT ST & MAGNOLIA BLVD	S	NW
W WALNUT ST & NATIONAL BLVD	E	SW
W WALNUT ST & NATIONAL BLVD	N	SE
W WALNUT ST & NATIONAL BLVD	S	NW
W WALNUT ST & EDWARDS BLVD	E	SW
W WALNUT ST & EDWARDS BLVD	N	SE
W WALNUT ST & EDWARDS BLVD	S	NW
E WALNUT ST & RIVERSIDE BLVD	E	SW
E WALNUT ST & RIVERSIDE BLVD	N	SE
E WALNUT ST & RIVERSIDE BLVD	S	NW
E WALNUT ST & MONROE BLVD	E	SW
E WALNUT ST & MONROE BLVD	N	SE
E WALNUT ST & MONROE BLVD	S	NW
E WALNUT ST & LINCOLN BLVD	E	SW
E WALNUT ST & LINCOLN BLVD	N	SE
E WALNUT ST & LINCOLN BLVD	S	NW
E WALNUT ST & FRANLKIN BLVD	E	SW
E WALNUT ST & FRANLKIN BLVD	N	SE
E WALNUT ST & FRANLKIN BLVD	S	NW
E WALNUT ST & NEPTUNE BLVD	E	SW
E WALNUT ST & NEPTUNE BLVD	N	SE
E WALNUT ST & NEPTUNE BLVD	S	NW
E WALNUT ST & ROOSEVELT BLVD	E	SW
E WALNUT ST & ROOSEVELT BLVD	N	SE
E WALNUT ST & ROOSEVELT BLVD	S	NW
E WALNUT ST & ROOSEVELT BLVD	W	NE
E WALNUT ST & PACIFIC BLVD	E	SW
E WALNUT ST & PACIFIC BLVD	N	SE
E WALNUT ST & PACIFIC BLVD	S	NW
E WALNUT ST & HARDING AVE	N	SE
E WALNUT ST & BELMONT AVE	N	SE
E WALNUT ST & ATLANTIC AVE	N	SE

Sec. 15-8. Stop intersections established and enumerated.

E WALNUT ST & WILSON AVE	N	SE
E WALNUT ST & MAPLE BLVD	E	SW
E WALNUT ST & MAPLE BLVD	N	SE
E WALNUT ST & MAPLE BLVD	S	NW
W OLIVE ST & NEW YORK AVE	W	NE
W OLIVE ST & NEW YORK AVE	N	SE
W OLIVE ST & GRAND BLVD	N	SE
W OLIVE ST & GRAND BLVD	S	NW
W OLIVE ST & GRAND BLVD	W	NE
W OLIVE ST & LINDELL BLVD	N	SE
W OLIVE ST & LINDELL BLVD	S	NW
W OLIVE ST & LINDELL BLVD	W	NE
W OLIVE ST & WASHINGTON BLVD	N	SE
W OLIVE ST & WASHINGTON BLVD	S	NW
W OLIVE ST & WASHINGTON BLVD	W	NE
W OLIVE ST & LAFAYETTE BLVD	N	SE
W OLIVE ST & LAFAYETTE BLVD	S	NW
W OLIVE ST & LAFAYETTE BLVD	W	NE
W OLIVE ST & LAURELTON BLVD	N	SE
W OLIVE ST & LAURELTON BLVD	S	NW
W OLIVE ST & LAURELTON BLVD	W	NE
W OLIVE ST & MAGNOLIA BLVD	S	NW
W OLIVE ST & MAGNOLIA BLVD	N	SE
W OLIVE ST & MAGNOLIA BLVD	W	NE
W OLIVE ST & NATIONAL BLVD	S	NW
W OLIVE ST & NATIONAL BLVD	N	SE
W OLIVE ST & NATIONAL BLVD	W	NE
E OLIVE ST & EDWARDS BLVD	S	NW
E OLIVE ST & EDWARDS BLVD	W	NE
E OLIVE ST & EDWARDS BLVD	N	SE
E OLIVE ST & RIVERSIDE BLVD	S	NW
E OLIVE ST & RIVERSIDE BLVD	W	NE
E OLIVE ST & RIVERSIDE BLVD	N	SE
E OLIVE ST & MONROE BLVD	S	NW
E OLIVE ST & MONROE BLVD	W	NE
E OLIVE ST & MONROE BLVD	N	SE
E OLIVE ST & LINCOLN BLVD	S	NW
E OLIVE ST & LINCOLN BLVD	W	NE
E OLIVE ST & LINCOLN BLVD	N	SE
E OLIVE ST & FRANKLIN BLVD	S	NW
E OLIVE ST & FRANKLIN BLVD	W	NE
E OLIVE ST & FRANKLIN BLVD	N	SE
E OLIVE ST & NEPTUNE BLVD	S	NW
E OLIVE ST & NEPTUNE BLVD	W	NE
E OLIVE ST & NEPTUNE BLVD	N	SE
W BEECH ST & BUS TURNAROUND	W	NE
W BEECH ST & NEVADA ST	S	NW
W BEECH ST & WASHINGTON BLVD	E	SW

Sec. 15-8. Stop intersections established and enumerated.

W BEECH ST & WASHINGTON BLVD	N	SE
W BEECH ST & WASHINGTON BLVD	S	NW
W BEECH ST & WASHINGTON BLVD	W	NE
W BEECH ST & LAFAYETTE BLVD	E	SW
W BEECH ST & LAFAYETTE BLVD	N	SE
W BEECH ST & LAFAYETTE BLVD	S	NW
W BEECH ST & LAFAYETTE BLVD	W	NE
W BEECH ST & LAURELTON BLVD	E	SW
W BEECH ST & LAURELTON BLVD	N	SE
W BEECH ST & LAURELTON BLVD	S	NW
W BEECH ST & LAURELTON BLVD	W	NE
W BEECH ST & MAGNOLIA BLVD	E	SW
W BEECH ST & MAGNOLIA BLVD	N	SE
W BEECH ST & MAGNOLIA BLVD	S	NW
W BEECH ST & MAGNOLIA BLVD	W	NE
W BEECH ST & NATIONAL BLVD	E	SW
W BEECH ST & NATIONAL BLVD	N	SE
W BEECH ST & NATIONAL BLVD	S	NW
W BEECH ST & NATIONAL BLVD	W	NE
W BEECH ST & EDWARDS BLVD	N	SE
E BEECH ST & EDWARDS BLVD	S	NW
W BEECH ST & EDWARDS BLVD	W	NE
E BEECH ST & EDWARDS BLVD	E	SW
E BEECH ST & RIVERSIDE BLVD	N	SE
E BEECH ST & RIVERSIDE BLVD	S	NW
E BEECH ST & RIVERSIDE BLVD	W	NE
E BEECH ST & RIVERSIDE BLVD	E	SW
E BEECH ST & MONROE BLVD	N	SE
E BEECH ST & MONROE BLVD	S	NW
E BEECH ST & MONROE BLVD	W	NE
E BEECH ST & MONROE BLVD	E	SW
E BEECH ST & LINCOLN BLVD	N	SE
E BEECH ST & LINCOLN BLVD	S	NW
E BEECH ST & LINCOLN BLVD	W	NE
E BEECH ST & LINCOLN BLVD	E	SW
E BEECH ST & FRANKLIN BLVD	N	SE
E BEECH ST & FRANKLIN BLVD	S	NW
E BEECH ST & FRANKLIN BLVD	W	NE
E BEECH ST & FRANKLIN BLVD	E	SW
E BEECH ST & NEPTUNE BLVD	N	SE
E BEECH ST & NEPTUNE BLVD	S	NW
E BEECH ST & NEPTUNE BLVD	W	NE
E BEECH ST & NEPTUNE BLVD	E	SW
E BEECH ST & ROOSEVELT BLVD	E	SW
E BEECH ST & ROOSEVELT BLVD	N	SE
E BEECH ST & ROOSEVELT BLVD	S	NW
W PENN ST & GRAND BLVD	E	SW
W PENN ST & GRAND BLVD	N	SE

Sec. 15-8. Stop intersections established and enumerated.

W PENN ST & GRAND BLVD	S	NW
W PENN ST & LINDELL BLVD	E	SW
W PENN ST & LINDELL BLVD	N	SE
W PENN ST & LINDELL BLVD	S	NW
W PENN ST & WASHINGTON BLVD	E	SW
W PENN ST & WASHINGTON BLVD	N	SE
W PENN ST & WASHINGTON BLVD	S	NW
W PENN ST & LAFAYETTE BLVD	E	SW
W PENN ST & LAFAYETTE BLVD	N	SE
W PENN ST & LAFAYETTE BLVD	S	NW
W PENN ST & LAURELTON BLVD	E	SW
W PENN ST & LAURELTON BLVD	N	SE
W PENN ST & LAURELTON BLVD	S	NW
W PENN ST & MAGNOLIA BLVD	E	SW
W PENN ST & MAGNOLIA BLVD	N	SE
W PENN ST & MAGNOLIA BLVD	S	NW
W PENN ST & NATIONAL BLVD	E	SW
W PENN ST & NATIONAL BLVD	N	SE
W PENN ST & NATIONAL BLVD	S	NW
E PENN ST & EDWARDS BLVD	E	SW
E PENN ST & EDWARDS BLVD	N	SE
E PENN ST & EDWARDS BLVD	S	NW
E PENN ST & RIVERSIDE BLVD	E	SW
E PENN ST & RIVERSIDE BLVD	N	SE
E PENN ST & RIVERSIDE BLVD	S	NW
E PENN ST & MONROE BLVD	E	SW
E PENN ST & MONROE BLVD	N	SE
E PENN ST & MONROE BLVD	S	NW
E PENN ST & LINCOLN BLVD	E	SW
E PENN ST & LINCOLN BLVD	N	SE
E PENN ST & LINCOLN BLVD	S	NW
E PENN ST & FRANKLIN BLVD	E	SW
E PENN ST & FRANKLIN BLVD	N	SE
E PENN ST & FRANKLIN BLVD	S	NW
E PENN ST & NEPTUNE BLVD	E	SW
E PENN ST & NEPTUNE BLVD	N	SE
E PENN ST & NEPTUNE BLVD	S	NW
E PENN ST & ROOSEVELT BLVD	E	SW
E PENN ST & ROOSEVELT BLVD	N	SE
E PENN ST & ROOSEVELT BLVD	S	NW
W BROADWAY & NEW YORK AVE	W	NE
W BROADWAY & NEW YORK AVE	S	NW
E BROADWAY & TAFT AVE	S	NW
E BROADWAY & CLEVELAND AVE	S	NW
E BROADWAY & MITCHELL AVE	S	NW
E BROADWAY & COOLIDGE AVE	S	NW
E BROADWAY & MAPLE AVE	S	NW
MAPLE & E BROADWAY AVE	E	SW

Sec. 15-8. Stop intersections established and enumerated.

MAPLE & RICHMOND RD	W	NE
MAPLE & RICHMOND RD	N	SE
SHORE RD & LONG BEACH BLVD	S	NW
SHORE RD & MONROE BLVD	E	SW
SHORE RD & MONROE BLVD	N	SE
SHORE RD & MONROE BLVD	S	NW
SHORE RD & LINCOLN BLVD	E	SW
SHORE RD & LINCOLN BLVD	N	SE
SHORE RD & LINCOLN BLVD	S	NW
SHORE RD & FRANKLIN BLVD	E	SW
SHORE RD & FRANKLIN BLVD	N	SE
SHORE RD & FRANKLIN BLVD	S	NW
SHORE RD & NEPTUNE BLVD	E	SW
SHORE RD & NEPTUNE BLVD	N	SE
SHORE RD & NEPTUNE BLVD	S	NW
SHORE RD & ROOSEVELT BLVD	E	SW
SHORE RD & ROOSEVELT BLVD	N	SE
SHORE RD & ROOSEVELT BLVD	S	NW
SHORE RD & PACIFIC BLVD *	E	SW
SHORE RD & PACIFIC BLVD	S	NW
W BAY DR & WASHINGTON BLVD	E	SW
W BAY DR & WASHINGTON BLVD	W	NE
W BAY DR & LAFAYETTE BLVD	N	SE
W BAY DR & LAFAYETTE BLVD	W	NE
W BAY DR & LAURELTON BLVD	N	SE
W BAY DR & LAURELTON BLVD	W	NE
W BAY DR & MAGNOLIA BLVD	N	SE
W PINE ST & LAFAYETTE BLVD	N	SE
W PINE ST & LAFAYETTE BLVD	S	NW
W PINE ST & LAFAYETTE BLVD	W	NE
W PINE ST & LAURELTON BLVD	N	SE
W PINE ST & LAURELTON BLVD	S	NW
W PINE ST & LAURELTON BLVD	W	NE
W PINE ST & MAGNOLIA BLVD	N	SE
W PINE ST & MAGNOLIA BLVD	S	NW
W PINE ST & MAGNOLIA BLVD	W	NE
W FULTON ST & LINDELL BLVD	N	SE
W FULTON ST & LINDELL BLVD	W	NE
W FULTON ST & WASHINGTON BLVD	N	SE
W FULTON ST & WASHINGTON BLVD	S	NW
W FULTON ST & WASHINGTON BLVD	W	NE
W FULTON ST & LAFAYETTE BLVD	N	SE
W FULTON ST & LAFAYETTE BLVD	S	NW
W FULTON ST & LAFAYETTE BLVD	W	NE
W FULTON ST & LAURELTON BLVD	N	SE
W FULTON ST & LAURELTON BLVD	S	NW
W FULTON ST & LAURELTON BLVD	W	NE
W FULTON ST & MAGNOLIA BLVD	N	SE

Sec. 15-8. Stop intersections established and enumerated.

W FULTON ST & MAGNOLIA BLVD	S	NW
W FULTON ST & MAGNOLIA BLVD	W	NE
W FULTON ST & NATIONAL BLVD	N	SE
W FULTON ST & NATIONAL BLVD	S	NW
W HUDSON ST & GRAND BLVD	N	SE
W HUDSON ST & GRAND BLVD	W	NE
W HUDSON ST & LINDELL BLVD	N	SE
W HUDSON ST & LINDELL BLVD	S	NW
W HUDSON ST & LINDELL BLVD	E	SW
W HUDSON ST & LINDELL BLVD	W	NE
W HUDSON ST & WASHINGTON BLVD	N	SE
W HUDSON ST & WASHINGTON BLVD	S	NW
W HUDSON ST & WASHINGTON BLVD	E	SW
W HUDSON ST & WASHINGTON BLVD	W	NE
W HUDSON ST & LAFAYETTE BLVD	N	SE
W HUDSON ST & LAFAYETTE BLVD	S	NW
W HUDSON ST & LAFAYETTE BLVD	E	SW
W HUDSON ST & LAFAYETTE BLVD	W	NE
W HUDSON ST & LAURELTON BLVD	N	SE
W HUDSON ST & LAURELTON BLVD	S	NW
W HUDSON ST & LAURELTON BLVD	E	SW
W HUDSON ST & LAURELTON BLVD	W	NE
W HUDSON ST & MAGNOLIA BLVD	N	SE
W HUDSON ST & MAGNOLIA BLVD	S	NW
W HUDSON ST & MAGNOLIA BLVD	E	SW
W HUDSON ST & MAGNOLIA BLVD	W	NE
W HUDSON ST & NATIONAL BLVD	E	SW
W HUDSON ST & NATIONAL BLVD	N	SE
W HUDSON ST & NATIONAL BLVD	S	NW
CENTER ST & LIRR LOT	W	NE
CENTER ST & LIRR LOT	E	SW
CENTER ST & LIRR LOT	S	NW
NORTH DR & NATIONAL BLVD	N	SE
NORTH DR & NATIONAL BLVD	W	NE
W MARKET ST & LINDELL BLVD	N	SE
W MARKET ST & LINDELL BLVD	E	SW
W MARKET ST & LINDELL BLVD	S	NW
W MARKET ST & WASHINGTON BLVD	N	SE
W MARKET ST & WASHINGTON BLVD	E	SW
W MARKET ST & WASHINGTON BLVD	S	NW
W MARKET ST & LAFAYETTE BLVD	N	SE
W MARKET ST & LAFAYETTE BLVD	E	SW
W MARKET ST & LAFAYETTE BLVD	S	NW
W MARKET ST & LAURELTON BLVD	N	SE
W MARKET ST & LAURELTON BLVD	E	SW
W MARKET ST & LAURELTON BLVD	S	NW
W MARKET ST & MAGNOLIA BLVD	N	SE
W MARKET ST & MAGNOLIA BLVD	E	SW

Sec. 15-8. Stop intersections established and enumerated.

W MARKET ST & MAGNOLIA BLVD	S	NW
W MARKET ST & NATIONAL BLVD *	E	SW
W CHESTER ST & GRAND BLVD	N	SE
W CHESTER ST & GRAND BLVD	S	NW
W CHESTER ST & GRAND BLVD	E	SW
W CHESTER ST & GRAND BLVD	W	NE
W CHESTER ST & LINDELL BLVD	N	SE
W CHESTER ST & LINDELL BLVD	S	NW
W CHESTER ST & LINDELL BLVD	W	NE
W CHESTER ST & WASHINGTON BLVD	N	SE
W CHESTER ST & WASHINGTON BLVD	S	NW
W CHESTER ST & WASHINGTON BLVD	W	NE
W CHESTER ST & LAFAYETTE BLVD	N	SE
W CHESTER ST & LAFAYETTE BLVD	S	NW
W CHESTER ST & LAFAYETTE BLVD	W	NE
W CHESTER ST & LAURELTON BLVD	N	SE
W CHESTER ST & LAURELTON BLVD	S	NW
W CHESTER ST & LAURELTON BLVD	W	NE
W CHESTER ST & MAGNOLIA BLVD	N	SE
W CHESTER ST & MAGNOLIA BLVD	S	NW
W CHESTER ST & MAGNOLIA BLVD	W	NE
W CHESTER ST & NATIONAL BLVD	N	SE
W CHESTER ST & NATIONAL BLVD	S	NW
W CHESTER ST & NATIONAL BLVD	W	NE
W PARK AVE & ILLINOIS AVE	N	SE
W PARK AVE & CONNECTICUT AVE	N	SE
W PARK AVE & GEORGIA AVE	N	SE
W PARK AVE & MINNESOTA AVE	N	SE
W PARK AVE & TENNESSEE AVE	N	SE
W PARK AVE & VIRGINIA AVE	N	SE
W PARK AVE & WYOMING AVE	N	SE
W PARK AVE & ARIZONA AVE	N	SE
W PARK AVE & PENNSYLVANIA AVE	N	SE
W PARK AVE & JJ EVANS BLVD	S	NW
OCEAN VIEW AVE & FLORIDA ST	E	SW
OCEAN VIEW AVE & FLORIDA ST	N	SE
OCEAN VIEW AVE & FLORIDA ST	S	NW
OCEAN VIEW AVE & GEORGIA AVE	E	SW
OCEAN VIEW AVE & GEORGIA AVE	N	SE
OCEAN VIEW AVE & GEORGIA AVE	S	NW
OCEAN VIEW AVE & KENTUCKY ST	S	NW
OCEAN VIEW AVE & KENTUCKY ST	N	SE
OCEAN VIEW AVE & INDIANA AVE	E	SW
OCEAN VIEW AVE & INDIANA AVE	N	SE
OCEAN VIEW AVE & INDIANA AVE	S	NW
OCEAN VIEW AVE & LOUISIANA ST	N	SE
OCEAN VIEW AVE & LOUISIANA ST	S	NW
OCEAN VIEW AVE & MARYLAND AVE	E	SW

OCEAN VIEW AVE & MARYLAND AVE	N	SE
OCEAN VIEW AVE & MARYLAND AVE	S	NW
OCEAN VIEW AVE & MICHIGAN ST	N	SE
OCEAN VIEW AVE & MICHIGAN ST	S	NW
OCEAN VIEW AVE & MINNESOTA AVE	E	SW
OCEAN VIEW AVE & MINNESOTA AVE	N	SE
OCEAN VIEW AVE & MINNESOTA AVE	S	NW
OCEAN VIEW AVE & NEW HAMPSHIRE ST	N	SE
OCEAN VIEW AVE & NEW HAMPSHIRE ST	S	NW
OCEAN VIEW AVE & TENNESSEE AVE	E	SW
OCEAN VIEW AVE & TENNESSEE AVE	N	SE
OCEAN VIEW AVE & TENNESSEE AVE	S	NW
OCEAN VIEW AVE & VERMONT ST	N	SE
OCEAN VIEW AVE & VERMONT ST	S	NW
OCEAN VIEW AVE & VIRGINIA AVE	E	SW
OCEAN VIEW AVE & VIRGINIA AVE	N	SE
OCEAN VIEW AVE & VIRGINIA AVE	S	NW
OCEAN VIEW AVE & WISCONSIN ST	S	NW
OCEAN VIEW AVE & WYOMING AVE	E	SW
OCEAN VIEW AVE & WYOMING AVE	N	SE
OCEAN VIEW AVE & WYOMING AVE	S	NW
OCEAN VIEW AVE & ALABAMA ST	S	NW
OCEAN VIEW AVE & DELAWARE AVE	E	SW
OCEAN VIEW AVE & DELAWARE AVE	N	SE
OCEAN VIEW AVE & DELAWARE AVE	S	NW
OCEAN VIEW AVE & OREGON ST	S	NW
OCEAN VIEW AVE & ARIZONA AVE	E	SW
OCEAN VIEW AVE & ARIZONA AVE	N	SE
OCEAN VIEW AVE & ARIZONA AVE	S	NW
OCEAN VIEW AVE & NEBRASKA ST	S	NW
OCEAN VIEW AVE & PENNSYLVANIA AVE	E	SW
OCEAN VIEW AVE & PENNSYLVANIA AVE	N	SE
OCEAN VIEW AVE & PENNSYLVANIA AVE	S	NW
OCEAN VIEW AVE & PENNSYLVANIA AVE	W	NE
OCEAN VIEW AVE & CALIFORNIA ST	S	NW
OCEAN VIEW AVE & NEW YORK AVE *	E	SW
OCEAN VIEW AVE & NEW YORK AVE	S	NW

* Two Signs at Location

(Code 1957, § 8-124.1; Ord. No. 691, § 1, 12-3-63; Ord. No. 1111/72, § 1, 1-11-72; Ord. No. 1137/72, § 1, 8-1-72; Ord. No. 1155/72, § 1, 1-12-72; Ord. No. 1172/73, § 1, 6-5-73; Ord. No. 1185/73, § 1, 10-2-73; Ord. No. 1202/74, § 1, 2-5-74; Ord. No. 1210/74, § 1, 3-5-74; Ord. No. 1255/74, § 1, 10-15-74; Ord. No. 1312/76, § 2, 5-4-76; Ord. No. 1324/76, § 1, 7-20-76; Ord. No. 1353/78, § 1, 3-28-78; Ord. No. 1365/78, § 1, 6-14-78; Ord. No. 1366/78, § 1, 6-14-78; Ord. No. 1367/78, § 1, 6-14-78; Ord. No. 1368/78, § 1, 6-14-78; Ord. No. 1386/78, § 1, 10-17-78; Ord. No. 1435/80, § 1, 11-5-80; Ord. No. 1451/81, § 1, 6-2-81; Ord. No. 9-20-83; Ord. No. 1617/87, § 1, 2-3-87; Ord. No. 1656/88, § 1, 3-1-88;

Sec. 15-8. Stop intersections established and enumerated.

Ord. No. 1706/89, § 1, 9-19-89; Ord. No. 1759/91, § 1, 6-4-91; Ord. No. 1763/91, § 1, 6-18-91; Ord. No. 2065/12, § 1, 3-20-2012; Ord. No. 3008/16, § 1, 7-05-2016; Ord. No. 3016/17, § 1, 9-05-2017)

Sec. 15-8.1. Yield intersections--Stopping when required for safety, stopping position.

The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the provisions of section 15-8.2 of this article.

(Code 1957, § 8-124.2; Ord. No. 1122/72, § 1, 5-2-72)

Sec. 15-8.2. Same--Yielding to vehicles and pedestrians; presumption of violation.

The driver of a vehicle approaching a yield sign shall, in obedience to such sign, slow down to a speed reasonable for existing conditions, or shall stop, if necessary, as provided in section 15-8.1 of this article, and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. Provided, however, that if such driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the intersection after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

(Ord. No. 1122/72, § 1, 5-2-72)

Sec. 15-8.3. Same--Established and enumerated.

Yield signs will be erected at the following designated locations:

Location	*At the Entrance to (a thru street)*	*At the Entrance to*	*Controlling Traffic Bound*			
			N	*S*	*E*	*W*
(1) Chester St	Washington Blvd.					X
(2) Olive St	Washington Blvd.					X
(3) Penn St.	Lafayette Blvd.				X	
(4) Pine St.	Laurelton Blvd.				X	
(5) Chester St.	Laurelton Blvd.					X
(6) Reserved						
(7) Penn St.	Laurelton Blvd.				X	
(8) Penn St.	Magnolia Blvd.				X	
(9) Hudson St.	National Blvd.				X	
(10) Penn St	Franklin Blvd.				X	
(11) Reserved						
(12) Harrison St	Neptune Blvd.				X	
(13) Olive St	Neptune Blvd.					X
(14) Shore Rd.		Pacific Blvd.			X	

(13) Olive St		National Blvd.			X

(Ord. No. 1122/72, § 1, 5-2-72; Ord. No. 1312/76, § 1, 5-4-76; Ord. No. 1323/76, § 1, 6-29-76; Ord. No. 1760/91, § 1, 6-4-91)

Sec. 15-9. Establishment of safety zones and crosswalks.

The city manager shall have the authority:

(a) To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, in his opinion, there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

(b) To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(Code 1957, § 8-118)

State law references: Authority to regulate the crossing of roadways by pedestrians, Vehicle and Traffic Law, § 1640(a)3; authority to designate safety zones, Vehicle and Traffic Law, § 1640(a)8.

Sec. 15-10. Installation of traffic-control devices.

The city manager shall place and maintain traffic-control signs, signals and devices when and as required under this chapter to make effective the provisions of this chapter, and he may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under this chapter or under state law.

(Code 1957, § 8-116.1)

Sec. 15-11. Traffic control signals--Obedience to.

(a) Every person shall obey the instructions of any official traffic-control signal applicable to him, in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer.

(b) Whenever official traffic-control signals are placed in position approximately conforming to the requirements of this chapter, such signals shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(c) Any official traffic-control signal placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such signals shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

(Code 1957, § 8-116.2; Ord. No. 1113/72, § 1, 2-15-72)

Sec. 15-12. Same--Legend.

Whenever traffic is controlled by traffic-control signals exhibiting different colored

lights, or colored lighted arrows, successively, one at a time or in combination, only the colors green, yellow and red shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) *Green indication:*

(1) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection of an adjacent crosswalk at the time such signal is exhibited.

(2) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Unless otherwise directed by a pedestrian-control signal, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) *Steady yellow indication:*

(1) Vehicular traffic facing a steady yellow signal may enter the intersection; however, said vehicular traffic is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(2) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(c) *Dark period or red-green combined when shown following the green indication:*

(1) Vehicular traffic facing such signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(2) Pedestrians facing such signal, unless otherwise directed by a pedestrian-control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

Sec. 15-12. Same--Legend.

(d) *Red indications:*

(1) Traffic, except pedestrians, facing a steady circular red signal, unless to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in paragraph (2) of this subdivision.

(2) When a sign is in place permitting a turn, traffic, except pedestrians, facing a steady red signal may cautiously enter into the intersection to make the turn indicated by such sign after stopping as required by paragraph (1) of this subdivision. Such traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Traffic, except pedestrians, facing a steady red arrow signal may not enter the intersection to make the movement indicated by such arrow and, unless entering the intersection to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and shall remain standing until an indication to proceed is shown.

(4) Unless otherwise directed by a pedestrian-control signal, pedestrians facing any steady red signal shall not enter the roadway.

(e) *Obedience to signs indicating signals:*

Vehicular traffic shall obey signs requiring obedience to traffic-control signals at intersections other than those at which such signals are located. No intersection not controlled by such signs prior to the effective date of this section shall hereafter be made subject to such method of control and no ordinance, order, rule or regulation requiring such obedience shall hereafter be adopted.

(f) *Obedience at locations other than intersections; stopping where indicated:*

In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence

of any such sign or marking the stop shall be made at the signal.

(Code 1957, § 8-116.3; Ord. No. 1113/72, § 1, 2-15-72; Ord. No. 1313/76, § 1, 5-4-76)

Sec. 15-13. Same--Pedestrian-control signals.

Whenever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place such signals shall indicate as follows:

(a) *Walk.* Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(b) *Wait* or *Don't Walk.* No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait or don't walk signal is showing.

(Code 1957, § 8-116.4; Ord. No. 1113/72, § 1, 2-15-72)

Sec. 15-14. Same--Flashing signals.

(a) *Meaning.* Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall indicate and apply to drivers of vehicles as follows:

(1) *Flashing red (stop signal).* When a red lens is illuminated with rapid intermittent flashes, vehicular traffic facing such signal shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting highway before entering the intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) *Flashing yellow (caution signal).* When a yellow lens is illuminated with rapid intermittent flashes, vehicular traffic facing such signal may proceed through the intersection or past such signal only with caution.

(b) *Specific Intersections Controlled.*

	Intersection	*Flashing Red*	*Flashing Yellow*
(1)	Lafayette Blvd. and Beech St.	Eastbound Westbound	Northbound Southbound
(2)	Monroe Blvd. and Beech St.	Eastbound Westbound	Northbound Southbound
(3)	National Blvd. and Beech St.	Eastbound Westbound	Northbound Southbound
(4)	Edwards Blvd. and Beech St.	Eastbound Westbound	Northbound Southbound

(5)	Riverside Blvd. and Beech St.	Eastbound Westbound	Northbound Southbound
(6)	Magnolia Blvd. and Beech St.	Eastbound Westbound	Northbound Southbound
(7)	Washington Blvd. and Beech St.	Eastbound Westbound	Northbound Southbound

(Code 1957, § 8-116.5; Ord. No. 1113/72, § 1, 2-15-72; Ord. No. 1353/78, § 2, 3-28-78; Ord. No. 1366/78, § 2, 6-14-78; Ord. No. 1367/78, § 2, 6-14-78; Ord. No. 1368/78, § 2, 6-14-78; Ord. No. 1406/79, § 1, 10-16-79)

Sec. 15-15. Same--Intersections established and enumerated.

Official traffic-control devices shall be erected at the following locations:

Intersections Controlled by Traffic Signal Lights

(a) *Beech St.*

(1) Ohio Ave.

(2) Illinois Ave.

(3) Connecticut Ave.

(4) Georgia Ave.

(5) Indiana Ave.

(6) Maryland Ave.

(7) Minnesota Ave.

(8) Tennessee Ave.

(9) Virginia Ave.

(10) Wyoming Ave.

(11) Delaware Ave.

(12) Arizona Ave.

(13) Pennsylvania Ave.

(14) New York Ave.

(15) Grand Blvd.

(16) Lindell Blvd.

(17) Reserved

(18) Reserved

(19) Laurelton Blvd.

(20) Reserved

(21) Reserved

(22) Reserved

(23) Reserved

(24) Long Beach Blvd.

(25) Reserved

(b) *Broadway*

(1) Grand Blvd.

(2) Lindell Blvd.

(3) Washington Blvd.

(4) Lafayette Blvd.

(5) Laurelton Blvd.

(6) Magnolia Blvd.

(7) National Blvd.

(8) Edwards Blvd.

(9) Riverside Blvd.

(10) Long Beach Blvd.

(11) Monroe Blvd.

(12) Lincoln Blvd.

(13) Franklin Blvd.

(14) Neptune Blvd.

(15) Roosevelt Blvd.

(16) Pacific Blvd.

(c) *Park Ave.*

(1) Ohio Ave.

(2) Indiana Ave.

(3) Maryland Ave.

(4) Minnesota Ave.

(5) Delaware Ave.

(6) New York Ave.

(7) Grand Blvd.

(8) Lindell Blvd.

Sec. 15-15. Same--Intersections established and enumerated.

(9) Washington Blvd.

(10) Lafayette Blvd.

(11) Laurelton Blvd.

(12) Magnolia Blvd.

(13) 1/2 between Magnolia Blvd. and National Blvd. (approximately 300 feet east of Magnolia Blvd.)

(14) National Blvd.

(15) Center St.

(16) Park Pl.

(17) Edwards Blvd.

(18) 1/2 between Edwards Blvd. and Riverside Blvd. (approximately 300 feet east of Edwards Blvd.)

(19) Riverside Blvd.

(20) 1/2 between Riverside Blvd., and Long Beach Blvd. (approximately 300 feet east of Riverside Blvd.)

(21) Long Beach Blvd.

(22) Monroe Blvd.

(23) Lincoln Blvd.

(24) Franklin Blvd.

(25) Neptune Blvd.

(26) Roosevelt Blvd.

(27) Pacific Blvd.

(28) Maple Blvd.

(d) *Riverside Blvd.*

(1) Market St.

(e) *Long Beach Blvd.*

(1) Pine St.

(2) Fulton St.

(3) Hudson St.

(4) Market St.

(5) Chester St.

(6) Walnut St.

(7) Olive St.

(8) Penn St.

Sec. 15-15. Same--Intersections established and enumerated.

(Code 1957, § 8-116.6; Ord. No. 1113/72, § 1, 2-15-73; Ord. No. 1353/78, § 3, 3-28-78; Ord. No. 1366/78, § 3, 6-14-78; Ord. No. 1367/78, § 3, 6-14-78; Ord. No. 1368/78, § 3, 6-14-78; Ord. No. 1406/79, § 2, 10-16-79)

Secs. 15-16--15-21. Reserved.

Sec. 15-15. Same--Intersections established and enumerated.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 15-22. General penalty for violation of chapter.

Except as otherwise expressly provided for in this chapter of by the Vehicle and Traffic Law of the State of New York, every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall be punished by a fine of up to five hundred dollars ($500) or by imprisonment for not more than fifteen (15) days or by both such fine and imprisonment.

(Code 1957, § 8-149; Ord. No. 1025/71, § 10, 2-2-71; Ord. No. 1518/83, § 1, 11-1-83; Ord. No. 3039/20, 11/17/2020)

Sec. 15-23. Emergency and experimental regulations.

(a) The commissioner of police is hereby empowered to make regulations necessary to make effective the provisions of this chapter and other traffic ordinances of the city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

(b) The city manager may test traffic-control devices under actual conditions of traffic.

(Code 1957, § 8-106)

Sec. 15-24. Duty of police officers to enforce traffic laws.

It shall be the duty of the officers of the police department or such officers as are assigned by the commissioner of police to enforce all street traffic laws of the city and all of the state vehicle and traffic laws applicable to street traffic in the city.

(Code 1957, § 8-108.1(a))

Sec. 15-25. Authority of police officers to direct traffic.

Officers of the police department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; however, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(Code 1957, § 8-108.1(b))

Sec. 15-26. Authority of fire department members to direct traffic.

Officers of the fire department, when at the scene of a fire, may direct traffic or

assist the police in directing traffic at the fire scene or in its immediate vicinity.

(Code 1957, § 8-108.1(c))

Sec. 15-27. Authority of peace officers and crossing guards to direct traffic.

Peace officers duly appointed by the city manager and school crossing guards are authorized to direct traffic and safeguard pedestrians.

(Code 1957, § 8-108.1(d))

Sec. 15-28. Obedience to traffic direction.

No person shall willfully fail or refuse to comply with any lawful order or direction of any person authorized by this division to direct traffic.

(Code 1957, § 8-109)

Sec. 15-29. Use of city insignia on private vehicles.

No person shall use the city seal or the design of the official flag of the City of Long Beach on any device of arms, sign, plaque or insignia on any vehicle not owned or used by the City of Long Beach within the territorial jurisdiction of the City of Long Beach unless such seal, device of arms, sign, plaque or insignia be issued by the police commissioner to eligible personnel of the auxiliary police, or by the fire commissioner to eligible personnel of the volunteer fire department.

Any person, firm, partnership, association or corporation who shall violate the provisions of this section shall be liable to a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) for each offense, or to imprisonment for not more than ten (10) days, or both, except that nothing in this section shall be construed to excuse the offense of a traffic infraction prohibiting the use of state and other seals and insignia on private vehicles as provided in the Vehicle and Traffic Law, Section 396.

(Code 1957, § 6, 6-222; Ord. No. 1115/72, § 1, 3-7-72)

Secs. 15-30--15-35. Reserved.

DIVISION 2. ENFORCEMENT PROCEDURE

Sec. 15-36. Distribution of traffic summons forms.

(a) The judge of the city court shall prescribe summons forms for alleged violators to appear in the city court to answer charges of violating traffic laws, the provisions of this chapter and other city traffic ordinances.

(b) The city judge shall issue traffic summons forms to the police commissioner or his duly authorized agent and shall maintain a record thereof, and shall require a written receipt for all summonses so issued.

(c) The police commissioner shall be responsible for the issuance of traffic summons forms to individual members of the police department. The police commissioner shall require a written receipt for all summonses so issued and shall maintain a record thereof.

(Code 1957, § 8-139.1; Ord. No. 1025/71, § 1, 2-2-71)

Sec. 15-37. Issuance of summons to violator.

(a) *Generally.* Except when authorized or directed by state law to immediately take a person before a judge for the violation of any traffic laws, ordinances or provisions of this Code, a police officer who halts a person for a violation other than for the purpose of giving him a warning or warning notice and does not take the person into custody under arrest, shall take the name, address and operator's license number of the person, the registered number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him in writing on a form provided by the city judge, a traffic summons containing a notice to answer to the charge against him in the city court at a time at least five (5) days after the date of such alleged violation.

(b) *Parking violations.* Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this chapter or by state law, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to the vehicle a traffic summons, on a form as prescribed by the city judge, for the owner of the vehicle to answer to the charge against him at the city court at a time specified in the summons.

(c) If the violation involves a parking meter, it shall be the duty of the police officers of the city, acting in accordance with instructions issued by the chief of police, to report:

(1) The number of each parking meter which indicates that the vehicle occupying the parking space adjacent to such parking meter is or has been parked or standing, in violation of any of the provisions of this division and the number of each parking meter adjacent to a parking space in which a vehicle is or has been parked or standing in violation of any of the provisions of this division.

(2) The license number of the vehicle, the year and the state of issuance.

(3) The length of time during which a vehicle is parked or standing in violation of any of the provisions of this division at the time of his inspection.

(4) Any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending the violation.

(Code 1957, §§ 8-139.2, 8-141, 8-213; Ord. No. 1025/71, §§ 2, 5, 2-2-71)

Sec. 15-38. Disposition and records of traffic summonses, warrants and informations.

(a) Each police officer, upon issuing a traffic summons to an alleged violator of any provision of the motor vehicle laws of the state, this chapter or other traffic ordinances of the city, shall deposit the original information and three (3) duplicate copies of the summons with his immediate superior officer who shall cause the information and two (2) copies of the summons to be delivered to the city court and a duplicate copy to the central records section of the police department.

(b) Upon the filing of the original information and duplicate copies of the summons in the city court pursuant to subsection (a), the summons may be disposed of only by trial in the city court or by other official action by a judge of the court, including forfeiture of bail or by payment of a fine to the court.

(c) The police commissioner shall require the return to him of each traffic summons issued pursuant to this division and all copies thereof which have been spoiled or upon which any entry has been made, but which has not been issued to an alleged violator. The summons shall be voided only by a judge of the city court.

(d) The city court shall maintain or cause to be maintained, in connection with each traffic summons issued by a member of the police department, a record of the disposition of the charge by the city court or its traffic violations bureau.

(e) The city court shall also maintain or cause to be maintained a record of all warrants issued by the city court on traffic violation charges and which are delivered to the police department for execution, and of the final disposition of all such warrants.

(Code 1957, § 8-139.3; Ord. No. 1025/71, § 3, 2-2-71)

Sec. 15-39. Failure to comply with traffic summons attached to parked vehicle.

If a violator of the restrictions on stopping, standing or parking under the traffic laws, city ordinances or the traffic provisions of this Code does not appear, in response to a traffic summons affixed to his motor vehicle, the city court or its traffic violations bureau shall send the owner of the motor vehicle to which the traffic summons was affixed, a citation informing him of the violation and warning him that in the event such citation is disregarded for a period of five (5) days, a warrant of arrest will be issued.

(Code 1957, § 8-142; Ord. No. 1025/71, § 6, 2-2-71)

Sec. 15-40. When copy of the summons shall be deemed a lawful complaint.

In the event the summons issued pursuant to this division is sworn to or affirmed under penalty of perjury as required under the general laws of the state in respect to a complaint charging commission of the offense alleged in the summons to have been committed, then the summons shall be deemed to be a lawful summons for the purpose of prosecution under this division.

(Code 1957, § 8-140; Ord. No. 1025/71, § 4, 2-2-71)

Sec. 15-41. Presumption in reference to illegal parking.

In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with a statement from the motor vehicle bureau of the state where the vehicle was registered or any other proof that the defendant named in the complaint was, at the time of the illegal parking, the registered owner of the vehicle, shall constitute prima facie evidence that the registered owner of the vehicle was the person who parked or placed such vehicle at the point where, and at the time when, the violation occurred.

(Code 1957, § 8-143; Ord. No. 1025/71, § 7, 2-2-71)

Sec. 15-42. When warrant to be issued.

In the event any person fails to comply with a traffic summons given to such person or attached to a vehicle pursuant to this division or fails to make an appearance pursuant to a summons directing an appearance in the city court, or if any person fails or refuses to deposit bail as required and within the time permitted by this Code or other city ordinance, the city judge may issue a warrant for the arrest of such person.

(Code 1957, § 8-144; Ord. No. 1025/71, § 8, 2-2-71)

Sec. 15-43. Record of traffic cases; report of convictions to the state.

(a) The judge of the city court shall keep or cause to be kept a record of every traffic complaint, traffic summons or other legal form of traffic charge deposited with or presented to the city court, and shall keep a record of every official action by the city court including, but not limited to, a record of every conviction, forfeiture of bail, judgment of acquittal and the amount of forfeiture resulting from every traffic complaint or summons deposited with or presented to the city court.

(b) After the conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter or other law regulating the operation of vehicles on highways, the city judge or the clerk of the court shall prepare and immediately forward to the state department of motor vehicles an abstract of the record of the court covering the case in which the person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the abstract to be true and correct.

(c) The abstract required by subsection (b) shall be made upon a form furnished by the state department of motor vehicles and shall include the name and address

of the party charged; the number, if any, of his operator's or chauffeur's license; the registration number of the vehicle involved; the nature of the offense; the date of hearing; the plea; the judgment, or whether bail was forfeited; and the amount of the fine or forfeiture, as the case may be.

(Code 1957, § 8-145; Ord. No. 1025/71, § 9, 2-2-71)

Sec. 15-44. Disposition of traffic fines and forfeitures.

All fines or forfeitures collected upon conviction pursuant to this division or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this chapter shall be paid into the general fund of the city treasury.

(Code 1957, § 8-146)

Sec. 15-45. Official misconduct.

The willful failure or refusal on the part of any judicial or other officer or employee of the city receiving or having custody of any fine or forfeiture pursuant to this division, either before or after a deposit in the general fund of the city treasury, to comply with the provisions of this division shall constitute misconduct in office and shall be a ground for removal therefrom.

(Code 1957, § 8-147)

Secs. 15-46--15-51. Reserved.

DIVISION 3. TRAFFIC DIVISION

Sec. 15-52. Established.

There is hereby established in the police department of this city a traffic division to be under the control of a police officer appointed by and directly responsible to the city manager.

(Code 1957, § 8-104)

Sec. 15-53. Administration of traffic.

Traffic shall be administered by the traffic division.

(Code 1957, § 8-103)

Sec. 15-54. Duties generally.

It shall be the duty of the traffic division, with such aid as may be rendered by other members of the police department, to enforce the street traffic regulations of this city and all of the state vehicle laws applicable to street traffic in the city, to make arrests for traffic violations, to investigate accidents and to cooperate with the other officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the traffic division by this division.

(Code 1957, § 8-105)

Sec. 15-55. Investigation of accidents; reports.

It shall be the duty of the traffic division, assisted by other police officers of the police department, to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents. Reports of accident investigations shall be filed with the city manager and the commissioner of public safety.

(Code 1957, § 8-105.1)

Sec. 15-56. Traffic accident reports.

The traffic division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed chronologically. The reports shall be available for the use and information of the city manager, the commissioner of public safety and the corporation counsel.

(Code 1957, § 8-105.3)

Sec. 15-57. Traffic accident studies.

Whenever the accidents at any particular location become numerous, the traffic division shall conduct studies of such accidents and determine remedial measures under

the direction of the commissioner of public safety.

(Code 1957, § 8-105.2)

Sec. 15-58. Annual traffic-safety report.

The traffic division and the commissioner of public safety shall annually prepare a traffic report which shall be filed with the city manager. The report shall contain information on traffic matters in this city as follows:

(a) The number of traffic accidents; the number of persons killed; the number of persons injured; and other pertinent traffic accident data;

(b) The number and location of traffic accidents investigated and other pertinent data on the safety activities of the police;

(c) The plans and recommendations of the traffic division for future traffic safety activities;

(d) A spot map indicating the location of traffic accidents.

(Code 1957, § 8-105.4)

Secs. 15-59--15-65. Reserved.

DIVISION 4. TRAFFIC VIOLATIONS BUREAU*

***Editor's note:** Ord. No. 1319/76, §§ 1, 2, adopted May 27, 1976 repealed former Div. 4, §§ 15-66--15-75 which had pertained to the traffic violations bureau. Said sections had been derived from Code 1957, §§ 2-311--2-311.9; Ord. No. 978/70, § 1, 6-9-70; Ord. No. 1072/71, § 1, 8-3-71; Ord. No. 1188/73, § 1, 11-28-73; Ord. No. 1198/74, § 1, 1-8-74.

Sec. 15-66. Establishment.

The City Court of the City of Long Beach, New York, is hereby authorized to establish a traffic violations bureau to assist the said city court in the disposition of offenses in relation to traffic violations, pursuant to the provisions of Section 370 of the General Municipal Law of the State of New York. Such bureau shall be in charge of such person or persons, and shall be open at such hours, as said city court may designate.

(Ord. No. 1611/86, § 1, 12-2-86)

Sec. 15-67. Jurisdiction and procedure.

The jurisdiction of such traffic violations bureau and its procedures shall conform to and comply with the provisions of section 371 of the General Municipal Law of the State of New York. A person charged with a traffic violation, infraction or offense may answer and plead guilty to such charge either in person or by written power of attorney in the following form: "I, the undersigned, have been charged with a violation of the Section of the Code of Ordinances set forth on the reverse side hereof, and I do hereby designate and appoint the person in charge of the Traffic Violations Bureau as my attorney in fact to waive my right to counsel and to a hearing in court, to answer and plead guilty to the charge against me, and to pay the prescribed fine in court."

(Ord. No. 1611/86, § 1, 12-2-86)

Sec. 15-68. Fines.

Said city court shall designate the fines to be paid for offenses which may be satisfied at such traffic violations bureau as provided in this division, provided that such fines are within the limits established as penalties for such offenses.

(Ord. No. 1611/86, § 1, 12-2-86)

Sec. 15-69. Records.

Such traffic violations bureau shall keep complete records of its activities, and perform such other duties and keep such other records as the city court shall prescribe, in accordance with the provisions of section 373 of the General Municipal Law of the State of New York.

(Ord. No. 1611/86, § 1, 12-2-86)

Secs. 15-70--15-83. Reserved.

DIVISION 5. TRAFFIC COMMISSION

Sec. 15-84. Established; composition and organization.

There is hereby established a traffic commission, the members of which shall serve without compensation, consisting of the city manager, the commissioner of public safety or, in his discretion as his representative, the chief of the traffic division, the chairman of the city council traffic committee, and one (1) representative each from the city engineer's office and the corporation counsel's office, and such number of other city officers and representatives of unofficial bodies as may be determined and appointed by the city manager. The chairman of the commission shall be appointed by the city manager and may be removed by him.

(Code 1957, § 8-107(a))

Sec. 15-85. Duties and functions.

It shall be the duty of the traffic commission, and to this end it shall have the authority within the limits of the funds at its disposal, to coordinate traffic activities; to carry on educational activities in traffic matters; to supervise the preparation and publication of traffic reports; to receive complaints having to do with traffic matters; and to recommend to the city council and to the city manager, the chief of the traffic division and other city officials, ways and means for improving traffic conditions and the administration and enforcement of traffic regulations.

(Code 1957, § 8-107(b))

Secs. 15-86--15-91. Reserved.

DIVISION 6. PARKING COMMISSION

Sec. 15-92. Created; composition.

There shall be a parking commission consisting of five (5) members appointed by the city manager, to serve without compensation.

(Code 1957, § 2-420.1; Ord. No. 956/70, § 1, 2-3-70)

Sec. 15-93. Powers and duties.

It shall be the responsibility of the parking commission to:

(a) Investigate, inquire into and report to the city manager on all matters pertaining to parking which may be referred to it for investigation and report by the city manager;

(b) Periodically report to the city manager on the maintenance, equipment and operation of the parking facilities of the city and to make recommendations with respect thereto;

(c) Coordinate the efforts of and consider the reports, recommendations and suggestions of public and private agencies and civic groups in regard to parking conditions and parking control in the city;

(d) Review and recommend educational activities for the purpose of promoting parking and the free movement of vehicular and pedestrian traffic in and near parking areas;

(e) Assist and advise in the preparation of a comprehensive city parking plan;

(f) Meet at stated intervals and meet whenever the city manager shall request it to do so.

(Code 1957, § 2-420.2; Ord. No. 956/70, § 1, 2-3-70)

Secs. 15-94--15-104. Reserved.

ARTICLE III. OPERATION

DIVISION 1. GENERALLY

Sec. 15-105. Designation of play streets; observance.

(a) The city manager shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the play street.

(b) Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then the driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code 1957, §§ 8-117, 8-117.1)

Sec. 15-106. Maximum speed limits.

(a) *Fifteen miles per hour.* No person shall operate a motor vehicle upon any public highway or street of the city between Nevada Avenue and New York Avenue, both inclusive, excepting only West Park Avenue and West Beech Street; and upon East Pine Street between Neptune Boulevard and Curley Street and East Chester Street between Neptune Boulevard and Curley Street; upon Curley, Harmon, Clark, Vinton, Farrell, Barnes, Kirkwood, Heron, Boyd, Dalton, Kerrigan, Armour, Doyle and Forester Streets; and upon Cleveland, Harding, Mitchell, Belmont, Pacific, Atlantic, Coolidge, Wilson and Taft Avenues at a rate of speed in excess of fifteen (15) miles per hour.

(b) *Thirty miles per hour:* No person shall operate a motor vehicle upon any public highway or street of the city at a rate of speed in excess of thirty (30) miles per hour, except as otherwise provided.

(Code 1957, § 8-120; Ord. No. 731, § 1, 10-6-64; Ord. No. 1035/71, § 1, 4-6-71; Ord. No. 1387/78, § 1, 11-8-78; Ord. No. 1560/85, § 1, 2-5-85; Ord. No. 1734/90, § 1, 9-4-90); Ord. No. 2076/12, § 1, 9-19-2012; Ord. No. 2080/13, § 1, 7/16/2013)

State law references: Authority to establish speed limits, Vehicle and Traffic Law, § 1643.

Sec. 15-107. Marking manner of turning at intersections.

(a) The city manager is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections.

(b) When authorized markers, buttons or other indicators are placed within an intersection indicating the course to be traveled by vehicles turning at the intersection, no driver of a vehicle shall disobey the directions of indicators.

(Code 1957, § 8-121)

Sec. 15-108. Vehicles not to be driven on a sidewalk.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(Code 1957, § 8-126)

Sec. 15-109. Entering and leaving controlled-access facilities.

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

(Code 1957, § 8-126.1)

Sec. 15-110. One-way streets; signposting.

(a) Whenever any ordinance or regulation of the city designates any one-way street or alley, the city manager shall place and maintain signs giving notice thereof, and no such ordinance or regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(b) Upon the following streets, parts of streets and alleys, vehicular traffic shall move only one way in the indicated direction when signs indicating the direction of traffic are erected and maintained:

SOUTHBOUND

Alabama Street, from Beech Street to Ocean View.

Armour Street, from Pine Street to Chester Street.

Barnes Street, from Pine Street to Chester Street.

California Street, from Beech Street to Ocean View.

Clark Street, from Chester Street to Pine Street.

Cleveland Avenue, from Walnut Street to Broadway.

Coolidge Avenue, from Walnut Street to Broadway.

Dalton Street, from Pine Street to Chester Street.

Doyle Street, from Chester Street to Pine Street.

Farrell Street, from Pine Street to Chester Street.

Florida Street, from Beech Street to Ocean View.

Forrester Street, from Pine Street to Chester Street.

Harmon Street, from Pine Street to Chester Street.

Heron Street, from Pine Street to Chester Street.

Kentucky Street, from Beech Street to Ocean View.

Louisiana Street, from Beech Street to Ocean View.

Michigan Street, from Beech Street to Ocean View.

Mitchell Avenue, from Walnut Street to Broadway.

Nebraska Street, from Beech Street to Ocean View.

Nevada Avenue, from Park Avenue to Beech Street.

New Hampshire Street, from Beech Street to Ocean View.

Oregon Street, from Beech Street to Ocean View.

Pacific Boulevard, from Walnut to Broadway.

Taft Avenue, from Walnut Street to Broadway.

Vermont Street, from Beech Street to Ocean View.

Wisconsin Street, from Beech Street to Ocean View.

NORTHBOUND

Alabama Street, from Beech Street to Park Avenue.

Atlantic Avenue, from Broadway to Walnut Street.

Belmont Avenue, from Broadway to Walnut Street.

Boyd Street, from Chester Street to Pine Street.

California Street, from Beech Street to Park Avenue.

Centre Street, from Park Avenue to Chester Street.

Curley Street, from Chester Street to Pine Street.

Florida Street, from Beech Street to Park Avenue.

Forester Street, from Pine Street to State Street.

Harding Avenue, from Broadway to Walnut Street.

Kentucky Street, from Beech Street to Park Avenue.

Kerrigan Street, from Chester Street to Pine Street.

Kirkwood Street, from Chester Street to Pine Street.

Louisiana Street, from Beech Street to Park Avenue.

Michigan Street, from Beech Street to Park Avenue.

Nebraska Street, from Beech Street to Park Avenue.

New Hampshire Street, from Beech Street to Park Avenue.

New York Avenue, from Beech Street to Park Avenue.

Sec. 15-110. One-way streets; signposting.

Oregon Street, from Beech Street to Park Avenue.

Park Place, from Park Avenue to Pine Street.

Vermont Street, from Beech Street to Park Avenue.

Vermont Street, from Beech Street to Park Avenue.

Vinton Street, from Pine Street to Chester Street.

Wilson Avenue, from Broadway to Walnut Street.

Wisconsin Street, from Beech Street to Park Avenue.

WESTBOUND

East Chester Street, from Park Place to Long Beach Boulevard.

Fulton Street, from Neptune Boulevard to Park Place.

Harrison Street, from Riverside Boulevard to Park Place.

Market Street, from Neptune Boulevard to Park Place.

Olive Street, from Roosevelt Boulevard to New York Boulevard.

West Bay Drive, from Magnolia Boulevard to Laurelton Boulevard.

West Chester Street, from Centre Street to Grand Boulevard.

West Fulton Street, from National Boulevard to Lindell Boulevard.

EASTBOUND

East Bay Drive, from Monroe Boulevard to Neptune Boulevard.

East Chester Street, from Long Beach Boulevard to Farrell Street.

Hudson Street, from Park Place to Neptune Boulevard.

Ocean View, from Connecticut Avenue to New York Avenue.

Park Alley, from Park Place to Long Beach Boulevard.

Penn Street, from New York Boulevard to Roosevelt Boulevard.

Pine Street, from Park Place to Neptune Boulevard.

Shore Road, from Long Beach Road to Pacific Boulevard.

Walnut Street, from New York Boulevard to Roosevelt Boulevard.

West Market Street, from Grand Boulevard to National Boulevard.

West Pine Street, from Lafayette Boulevard to Magnolia Boulevard.

(Code 1957, §§ 8-122.1, 8-122.2; Ord. No. 1118/72, § 1, 4-4-72; Ord. No. 1321/76, § 1, 6-1-76; Ord. No. 1455/81, §§ 1, 2, 7-7-81; Ord. No. 1616/87, § 1, 2-3-87; Ord. No. 1953/02, § 1, 4-16-02; Ord. No. 1955/02, § 1, 5-21-02; Ord. No. 1965/03, § 1, 2-18-03)

State law references: Authority to establish one-way roadways, Vehicle and Traffic Law, § 1640(a)4; observance of signs designating one-way roadways required, Vehicle

Sec. 15-110. One-way streets; signposting.

and Traffic Law, § 1127(a).

Sec. 15-111. Authority to designate one-way roadways during certain time periods; reversible lanes.

(a) The city manager is authorized to determine and designate streets, parts of streets, or specific lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The city manager may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

(b) It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this section.

(Code 1957, § 8-123)

Sec. 15-112. Prohibition of "U" turns; locations enumerated.

The turning of vehicles so as to proceed in the opposite direction is hereby prohibited at the following locations:

(1) On *Beech Street* between New York Avenue and Nevada Avenue.

(2) On *Park Avenue* between New York Avenue and Nevada Avenue.

(3) On *Park Place* between Park Avenue and Fulton Street.

(4) On *Riverside Boulevard* between Park Avenue and Market Street.

(5) At the intersection of *Monroe Boulevard* with *Chester Street.*

(Code 1957, § 8-122.3; Ord. No. 1173/73, § 1, 6-5-73)

Secs. 15-113--15-118. Reserved.

DIVISION 2. RESTRICTIONS ON STREET USE

Sec. 15-119. Load restrictions upon vehicles using certain streets.

When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amount specified at any time upon any of the designated streets or parts thereof.

(Code 1957, § 8-136.1)

State law references: Authority to prohibit use of streets by vehicles in excess of specified weights, Vehicle and Traffic Law, § 1640(5).

Sec. 15-120. Commercial vehicles prohibited from using certain streets.

(a) When signs are erected giving notice thereof, no person shall operate any

commercial vehicle at any time uponany of the streets or parts thereof, except that commercial vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.

(b) The provisions of this section shall not apply to any person driving or in charge of a bus which has clearly marked on its exterior the name of its owner.

(c) The words "commercial vehicle" when used herein shall mean any vehicle, regardless of the type of plate displayed thereon, either horse drawn or motor driven, designed, used, constructed or equipped for the transportation of goods, wares or merchandise in trade or commerce or for the transportation of property.

(d) Every violation of this section shall be deemed a violation within the intent of the Penal Law of the State of New York, and that upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars ($250.00), or by imprisonment not to exceed fifteen (15) days, or by both such fine and imprisonment.

(Code 1957, § 8-136.2(c)--(e); Ord. No. 1145/72, § 1, 10-3-72; Ord. No. 1153/72, § 1, 12-12-72; Ord. No. 1160/73, § 3, 2-6-73)

Sec. 15-121. Designation of certain streets not to be used by nonmotorized and certain other vehicles.

(a) The city manager is hereby authorized to determine and designate those heavily traveled streets upon which shall be prohibited the use of the roadway by motor-driven cycles, bicycles, horse-drawn vehicles or other nonmotorized traffic, and shall erect appropriate signs giving notice thereof.

(b) When signs are so erected giving notice of restrictions imposed pursuant to subsection (a), no person shall disobey the restrictions stated on the signs.

(Code 1957, § 8-137)

Sec. 15-122. Establishment of snow emergency routes; removal of autos; penalty for violations.

(a) The purpose of this section is to expedite the removal of snow in order to reduce driving hazards and to insure open roads for the movement of emergency vehicles.

(b) The commissioner of public works shall prepare, and may from time to time amend, a list of city streets to be designated as snow routes, indicating the name of each street. Such list and any amendments thereto shall be submitted to the city manager. Whenever the city manager designates any of such streets as snow routes and files same with the city clerk, such designation shall take effect upon such filing and shall continue until modified.

(c) The city manager may declare a state of snow emergency whenever in his judgment snow has created dangerous driving conditions within the City of Long Beach. During the existence of such snow emergency no vehicle shall be parked or abandoned upon the designated snow emergency routes. The city manager shall in his discretion terminate such emergency.

Sec. 15-121. Designation of certain streets not to be used by nonmotorized and certain other vehicles.

(d) The traffic division shall erect and maintain appropriate signs at reasonable intervals along the designated snow emergency routes to provide notice that it is unlawful to park or abandon any vehicle along a snow route during a snow emergency.

(e) Any vehicle parked or abandoned in violation of the provisions of this section shall be deemed a nuisance and a menace to the safe and proper regulation of traffic. Employees of the department of public works or any authorized city employee may remove or cause to be removed any such vehicle to any other location within the city without incurring any liability for damages to the vehicle. The owner of such vehicle shall be required to reimburse the city for the actual and necessary cost of removal and storage thereof before he is entitled to regain possession of the vehicle.

(f) Any person violating any of the provisions of this section shall be guilty of a violation and, upon conviction thereof, shall be subject to a fine of not more than one hundred dollars ($100.00), and each day of which said violation continues shall constitute a separate offense.

(Ord. No. 1266/74, § 1, 12-17-74)

Sec. 15-123. Pedestrian safety rules.

(a) The purpose of this section is to protect pedestrians upon the streets of the city from danger and injuries.

(b) All persons walking upon the streets of the city, including persons in wheelchairs and persons pushing or pulling perambulators, strollers and carriages, are required to use the sidewalks, where sidewalks are provided.

(c) In an area where sidewalks are not provided, or are obstructed, pedestrians may enter the street pavement only after carefully ascertaining that they will not be entering the path of moving traffic, and that the street pavement is in a condition suitable for walking. In such a case, pedestrians may traverse the street pavement for only the distance necessary until the sidewalk resumes.

(d) Pedestrians may cross streets only at marked crosswalks where crosswalks are provided. At intersections with no marked crosswalks, pedestrians must cross the street within ten (10) feet of the intersection.

(e) Diagonal crossing means leaving a curb at an intersection and proceeding directly to the diagonally opposite curb. Except where otherwise posted, diagonal crossing is prohibited.

(f) Where lighted pedestrian crossing signals are provided, pedestrians may leave the curb only when the WALK signal is lit. When the DON'T WALK signal begins to flash, pedestrians already within the intersection may continue to the opposite curb, but pedestrians upon the curb may not enter the street pavement.

(g) Where standard red, amber and green traffic signals are provided, without separate pedestrian signals, pedestrians may leave the curb only upon a green signal. Where the traffic signal consists only of a flashing yellow or red light, pedestrians shall exercise the same high degree of caution when crossing as if no traffic signal controlled the intersection.

(h) Pedestrians crossing East Park Avenue or West Park Avenue, at any intersection from Maple Boulevard to New York Avenue, shall observe and obey the traffic signals at both the eastbound lanes and the westbound lanes. Pedestrians crossing from north to south, or from south to north, shall pause on the center divider and shall continue to the opposite curb only if the traffic signal facing their direction shall be green or shall read WALK.

(i) Pedestrians crossing any street other than at a marked crosswalk or within ten (10) feet of an intersection are deemed to assume every risk which could have been avoided had the crosswalk or intersection been used. Such assumed risks shall include, but not be limited to, the risks presented by moving traffic and any physical defects in the street pavement.

(j) Violations of subsections (b), (c), (d), (e), (f), (g) and (h) of this section shall subject the offender to a fine of twenty-five dollars ($25.00) for the first offense, fifty dollars ($50.00) for the second offense, and one hundred dollars ($100.00) for subsequent offenses.

(k) The provisions of this section shall be in addition to all applicable provisions of New York State and Nassau County laws.

(Ord. No. 1744/91, § 1, 2-19-91)

Sec. 15-124. Valet Parking.

The parking area for valet parking services shall not be allowed on any public street, public right-of-way or areas designated for public parking.

(Ord. No. 2043/2009, § 1, 8-4-2009)

Secs. 15-125--15-132. Reserved.

ARTICLE IV. PARADES AND PROCESSIONS

Sec. 15-133. When permit required.

No funeral, procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, except the armed forces of the United States, the military forces of the state, and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the city clerk and such other regulations as are set forth in this article.

(Code 1957, § 8-125.3)

Sec. 15-134. Designation of funeral processions.

The traffic division shall designate a type of pennant or other identifying insignia to be displayed upon, or other method to be employed, to identify the vehicles in funeral processions.

(Code 1957, § 8-105.5)

Sec. 15-135. Driving through funeral or other procession.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this article. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

(Code 1957, § 8-125)

Sec. 15-136. Manner of operating vehicles in a procession.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

(Code 1957, § 8-125.1)

Sec. 15-137. Funeral processions to be identified.

A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the traffic division.

(Code 1957, § 8-125.2)

Secs. 15-138--15-148. Reserved.

ARTICLE V. STOPPING, STANDING AND PARKING*

***Cross references:** Parking commission, § 15-92 et seq.

State law references: Authority to prohibit, restrict or limit the stopping, standing or parking of vehicles, Vehicle and Traffic Law, § 1640(a)6.

DIVISION 1. GENERALLY

Sec. 15-149. Bus stops: Designation; observance.

(a) The city manager shall have the authority to designate bus stops at such locations and in such number as may be necessary and of the greatest benefit and convenience to the public. Each bus stop shall be designated by appropriate signs.

(b) No person shall stop, stand or park a vehicle at an authorized bus stop so designated as provided in this section, or between the right curb and any bus stop.

(Code 1957, § 8-128(a), (c))

Sec. 15-150. Manner of standing or parking buses.

(a) The operator of a bus shall not stand or park the bus upon any street at any place other than at a bus stand designated as provided in this article.

(b) The operator of a bus shall not stop the bus upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated in this article, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of such vehicle not farther than eighteen (18) inches from the curb and the bus approximately parallel to the curb, so as not to unduly impede the movement of other vehicular traffic.

(Code 1957, §§ 8-128(b), 8-132(a)--(c))

Sec. 15-151. Designation of passenger and freight loading zones.

(a) *Designation of curb loading zones.* The city manager is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.

(b) *Designation of public carrier stops and stands.* The city manager is hereby

authorized to establish taxicab stands and stands for other passenger common-carrier motor vehicles on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public, and each taxicab stand or other stand shall be designated by appropriate signs.

(c) *Standing in passenger curb loading zone.* No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three (3) minutes.

(d) *Standing in freight curb loading zone.* No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading or unloading of materials exceed thirty (30) minutes.

(Code 1957, § 8-131.11)

Sec. 15-152. When taxicabs are required to use taxicab stands.

The operator of a taxicab shall not stand or park the taxicab upon any street at any place other than in a taxicab stand so designated as provided in this division. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(Code 1957, § 8-132(d))

Sec. 15-152.1. Restricted use of bus and taxicab stands.

No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

(Code 1957, § 8-132.1)

Sec. 15-153. Angle (diagonal and perpendicular) parking; locations established and enumerated; obedience to signs and markings.

(a) *Applicability; schedule:* Angle parking, either by diagonal parking or perpendicular parking, shall be permitted for passenger vehicles only (commercial and camper parking being prohibited) at the following designated locations, and proper signs posted at said locations indicating that such parking is permitted or the streets shall be marked to indicate the spaces where such parking is permitted:

(A) DIAGONAL PARKING

Location	*Center Mall*
(1) Park Ave.	Roosevelt Blvd. to Neptune Blvd.
(2) Park Ave.	Monroe Blvd. to Long Beach Blvd.
(3) Park Ave.	Long Beach Blvd. to Riverside Blvd.
(4) Park Ave.	Riverside Blvd. to Edwards. Blvd.
(5) Park Ave.	Park Place to Center St.
(6) Park Ave.	Center St. to National Blvd.
(7) Park Ave.	National Blvd to Magnolia Blvd.
(8) Park Ave.	Magnolia Blvd. to Laurelton Blvd.
(9) Park Ave.	Laurelton Blvd. to Lafayette Blvd.
(10) Park Ave.	Grand Blvd. to 300 feet west
(11) Broadway	Maple Blvd. to Cleveland Ave.
(12) Broadway	Cleveland Ave. to Harding Ave.
(13) Broadway	Harding Ave. to Mitchel Ave.
(14) Broadway	Mitchel Ave. to Belmont Ave.
(15) Broadway	Belmont Ave. to Pacific Blvd.
(16) Broadway	Pacific Blvd. to Atlantic Ave.
(17) Broadway	Atlantic Ave. to Coolidge Ave.
(18) Broadway	Coolidge Ave. to Wilson Ave.
(19) Broadway	Wilson Ave. to Taft Ave.
(20) Broadway	Taft Ave. to Roosevelt Ave.
(21) Broadway	Roosevelt Ave. to Neptune Blvd.
(22) Broadway	Neptune Blvd. to Franklin Blvd.
(23) Broadway	Franklin Blvd. to Lincoln Blvd.
(24) Broadway	Monroe Blvd. to Long Beach Blvd.
(25) Broadway	Long Beach Blvd. to Riverside Blvd.
(26) Broadway	Riverside Blvd. to Edwards Blvd.
(27) Broadway	Edwards Blvd. to National Blvd.
(28) Broadway	National Blvd to Magnolia Blvd.
(29) Broadway	Magnolia Blvd. to Laurelton Blvd
(30) Broadway	Laurelton Blvd to Lafayette Blvd.

Sec. 15-153. Angle (diagonal and perpendicular) parking; locations established and enumerated; obedience to signs and markings.

(31) Broadway	Lafayette Blvd. to Washington Blvd.
(32) Broadway	Washington Blvd. to Lindell Blvd
(33) Broadway	Lindell Blvd to Grand Blvd.
(34) Broadway	Grand Blvd. to New York Ave.
(35) Pacific Blvd.	Broadway to Shore Rd.
(36) Roosevelt Blvd.	Broadway to Beachfront
(37) Neptune Blvd.	Broadway to Beachfront
(38) Franklin Blvd.	Broadway to Beachfront
(39) Lincoln Blvd.	Broadway to Beachfront
(40) Monroe Blvd.	Broadway to Beachfront
(41) Long Beach Blvd.	Broadway to Beachfront
(42) Monroe Blvd.	Broadway to Beachfront
(43) Roosevelt Blvd.	Park Ave. to Walnut St.
(44) Neptune Blvd.	Park Ave. to Walnut St.
(45) Monroe Blvd.	Park Ave. to Walnut St.
(46) Riverside Blvd.	Park Ave. to Walnut St.
(47) Edwards Blvd	Park Ave. to Walnut St.
(48) National Blvd.	Park Ave. to Walnut St.
(49) Lindell Blvd.	Hudson St. to Walnut St.
(50) Lindell Blvd.	Walnut St. to Olive St.
(51) Delaware Ave.	Park Ave. to Bayfront
(52) Centre St. (west curb)	Park Ave. to Chester St.
(53) Centre St. (east curb)	Park Ave. to Chester St.

(B) PERPENDICULAR PARKING

Location	*Municipal Parking Area*
(1) Centre St.	Approximately 200 feet east and 500 feet north of Chester St.
(2) Long Beach Blvd.	Approximately 100 feet north and 100 feet west at northwest corner Walnut St..
(3) Beech St..	Approximately 80 feet north and 60 feet west at northwest corner Georgia Ave..

Sec. 15-153. Angle (diagonal and perpendicular) parking; locations established and enumerated; obedience to signs and markings.

(4) Beech St..	Approximately 80 feet south and 60 feet west at southwest corner Maryland Ave..
(5) Bay Dr..	Magnolia Blvd. (in an easterly direction for approximately 300 feet and the north to the Bayfront)
(3) Centre St. (east curb)	Chester St. to 200 feet north

(b) *Obedience to angle parking signs or markings:* No person shall park or stand any vehicle at an angle or perpendicularly to the curb or edge of the roadway except on such streets and at such locations designated in subsection (a) of this section. When parking such vehicle in such parking spaces (diagonal or perpendicular) vehicles must be parked forward into the space (head-on), with the front end of the vehicle nearest the curb or sidewalk.

(Code 1957, §§ 8-130.2, 8-130.3; Ord. No. 964/70, § 2, 4-7-70; Ord. No. 1117/72, § 2, 4-4-72)

State law references: Authority to authorize angle parking, Vehicle and Traffic Law, § 1641(2).

Sec. 15-154. Parking restrictions as indicated by signs.

When signs are erected in any block giving notice thereof, no person shall park a vehicle at any time during any twenty-four (24) hour period nor during such other period of time so designated.

(Code 1957, § 134.4; Ord. No. 1082/71, § 1, 9-14-71)

Sec. 15-155. Special permits for loading and unloading.

(a) The city manager is authorized to issue special permits to allow the backing or parallel parking of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of the permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized.

(b) It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any permit issued pursuant to subsection (a).

(Code 1957, § 8-130.4)

Sec. 15-156. Display of lights upon vehicles parked at night.

(a) Whenever a vehicle is lawfully parked at nighttime upon any street within a business or residence district, no lights need be displayed upon the parked vehicle.

(b) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

(Code 1957, § 8-130.5)

State law references: Authority to dispense with requirement that vehicle parked at night be lighted, Vehicle and Traffic Law, § 375(e)(4).

Sec. 15-157. Parking in alleys.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley, in such position as to block the driveway entrance to any abutting property or property on the opposite side of such alley where such alley is less than thirty (30) feet wide.

(Code 1957, § 8-131.3)

Sec. 15-158. Parking so as not to obstruct traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic.

(Code 1957, § 8-131.2)

Sec. 15-159. Parking for extended period prohibited.

No person shall park a vehicle on any street continuously for a period of time exceeding two (2) weeks without changing the location of such vehicle.

(Ord. No. 1379/78, § 1, 9-5-78)

Sec. 15-159.1. Parking for certain purposes prohibited.

No person shall park a vehicle upon any roadway for the purpose of:

(1) Displaying such vehicle for sale.

(2) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

(Code 1957, § 8-131.5)

Sec. 15-160. Designation of no parking zones in proximity to schools.

(a) The city manager is authorized to erect signs indicating no parking upon either or both sides of any street adjacent to or near any school property or recreation area when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

(b) When official signs are erected indicating no parking upon either side of a street adjacent to or near any school property or recreation area as authorized herein, no person shall park a vehicle in any such designated place.

(Code 1957, § 8-131.6)

Sec. 15-161. Establishing no-parking zones on narrow streets.

(a) The city manager is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed thirty (30) feet.

(b) When official signs prohibiting parking are erected upon narrow streets as authorized by subsection (a), no person shall park a vehicle upon any such street in violation of any such sign.

(Code 1957, § 8-131.7)

Sec. 15-162. Prohibiting standing or parking on one-way streets.

The city manager is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left-hand side in violation of any such sign.

(Code 1957, § 8-131.8)

Sec. 15-162.1. Standing or parking on one-way roadways permitted when signs erected.

In the event a highway includes two (2) or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking. The city manager is authorized to determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

(Code 1957, § 8-131.9)

Sec. 15-163. Prohibiting stopping, standing or parking in hazardous locations.

(a) The city manager is authorized to determine and designate by proper signs places not exceeding one hundred (100) feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(b) When official signs are erected at hazardous or congested places as authorized by subsection (a), no person shall stop, stand or park a vehicle in any such designated place.

(Code 1957, § 8-131.10)

Sec. 15-164. Stopping, standing or parking during certain hours as indicated by signs.

When signs are erected in any block giving notice thereof, no person shall stop, stand or park a vehicle between the hours specified of any day in a residential area of

the city for a period of time longer than thirty (30) minutes, except for the purpose of loading or unloading, and then only for the time actually required for such loading or unloading.

(Code 1957, § 8-134.1)

Sec. 15-165. Parking time limited as indicated by signs.

When signs are erected in any block giving notice thereof, no person shall park a vehicle for longer than two (2) hours at any time between the hours of 8:00 a.m. and 5:00 p.m. of any day upon any of the streets where the signs are erected.

(Code 1957, § 8-134.2)

Sec. 15-166. Parking commercial vehicles, trucks, trailers, buses, limousines and livery vehicles generally.

(a) No person shall park any commercial vehicle, truck, trailer, bus, school car, limousine or livery vehicle to stand upon, within or adjacent to any mall, except as otherwise indicated by appropriate signs.

(b) No person shall stop, stand or park any truck, trailer, commercial vehicle, bus, school car, limousine or livery vehicle on any street in a residential area for a period of time in excess of thirty (30) minutes, except:

(1) For the purpose of loading or unloading, and then only for the time actually required for such loading or unloading; or

(2) For the purpose of performing services at premises within the block in which such vehicle shall be parked, and then only for the time actually required for the completion of such services.

(c) No person shall stop, stand or park any truck, trailer, commercial vehicle, bus, limousine, livery or any vehicle which is more than twenty (20) feet in length or eight (8) feet in width or height, on any street for a period of time in excess of thirty (30) minutes, except for the purpose of loading or unloading, and then only for the time actually required for such loading or unloading.

(d) No person shall stop, stand or park any trailer or vehicle, more than five (5) feet in height, adjacent to any median on Broadway within one hundred (100) feet of any intersecting street, avenue or boulevard.

(e) Notwithstanding the prohibitions and limitations set forth in this section, persons may stop, stand or park their permitted truck, commercial vehicle, bus, limousine, livery or any vehicle in a Commercial Parking Area as set forth in Chapter 15, Article V, Division 4, Commercial Permit Parking.

(Code 1957, §§ 8-133.4, 8-134.3; Ord. No. 802, § 1, 7-5-66; Ord. No. 830, § 1, 12-6-66; Ord. No. 832, § 1, 1-10-67; Ord. No. 937, § 1, 10-7-69; Ord. No. 1456, § 1, 7-7-81; Ord. No. 1586/86, § 1, 3-18-86; Ord. No. 1684/89, § 2, 1-3-89; Ord. No. 1815/94, § 1, 4-19-94; Ord. No. 3039/20, 11-17-2020)

Sec. 15-167. Parking control signs required.

Whenever by this article any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the city manager to cause to be erected appropriate signs giving notice thereof and no such regulations shall be effective unless the signs are erected and in place at the time of any alleged offense.

(Code 1957, § 8-135)

State law references: When signs or markings are required, Vehicle and Traffic Law, § 1683.

Sec. 15-168. Removal of key from vehicle unlawfully parked with key in the ignition.

Whenever any police officer shall find a motor vehicle standing unattended with the ignition key in the vehicle, in violation of section 1210 of the state Vehicle and Traffic Law, the police officer is authorized to remove the key from the vehicle and to deliver the key to the police officer in charge at police headquarters.

(Code 1957, § 8-137.1; Ord. No. 843, § 1, 3-7-67)

Sec. 15-169. Parking for physically handicapped persons.

(a) Any person having a current driver's license and owning an automobile, who is physically handicapped, as that term is defined in Section 50 of the New York Public Building Law, or who has a member of his or her household who is nonambulatory by reason of limited or no use of one or both lower limbs or who has a neuromuscular disfunction which severely limits mobility, may petition the city manager in writing to set aside a properly marked parking space for physically handicapped persons only, located conveniently to the residence of such person. Such petition shall be accompanied by a written statement from a physician duly licensed to practice medicine in the State of New York, certifying that such condition constitutes a physical handicap as that term is defined in Section 50 of the New York Public Buildings Law, or renders such individual, for whom the petition is made, nonambulatory.

(b) Upon receipt of a petition described in subsection (a) hereof, the city manager shall cause an investigation to be made concerning the petitioner or such member of petitioner's household for whom the petition is made, and the availability of the requested parking space. The city manager may, in his discretion, require the petitioner or such member of petitioner's household, to be examined by a physician other than the physician submitting the certification described in subsection (a) hereof. On the basis of such investigation, the city manager is authorized to cause such parking space to be properly marked for the use of physically handicapped persons only, and to issue a parking permit to such physically handicapped person.

(c) When an official sign is erected at a parking space designated as in this section provided, no person other than a certified physically handicapped person shall stop, stand or park a vehicle in any such designated place.

(d) Each parking permit issued pursuant to this section shall expire on the thirtieth

day of June of each year.

(e) Upon receipt by the city manager of a written request of the owner or a person in general charge of the operation and control of the parking area of a multiple dwelling or other private parking facility, in which one or more spaces are set aside and clearly marked as reserved for vehicles registered and having identification plates or a special parking permit, as being owned by a severely handicapped person, such parking restriction shall be enforced by the police department of the city.

(f) The city manager is authorized to designate other parking spaces on public property within the City of Long Beach for the exclusive use of physically handicapped persons, who have been issued permits hereunder; and when properly marked for the use of such physically handicapped persons, the use of such parking spaces by others shall constitute a violation of this chapter.

(Ord. No. 1414/80, § 1, 4-15-80; Ord. No. 1460/81, § 1, 9-1-81; Ord. No. 1621/87, § 1, 4-7-87; Ord. No. 1802/93, § 1, 7-6-93)

Sec. 15-170. Standing or parking close to curb.

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within twelve (12) inches of the curb or edge of the roadway except as otherwise provided in this article.

(Code 1957, § 8-130.1; Ord. No. 1203/74, § 1(a), 2-5-74)

Sec. 15-171. Parking prohibited at all times on certain streets.

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the following designated locations:

(a) On the boulevards from Edwards Blvd., to New York Ave., inclusive, between Broadway and the boardwalk. On the boulevards from Riverside Blvd., to Maple Blvd., inclusive, between Front Street and the boardwalk.

(b) The east and west curbs of Center St. from West Park Ave. to West Chester St.

(c) The south curb of West Beech St. from New York Ave. running westerly fifty (50) feet. The east curb of New York Ave. between Beech St. and Broadway. The west curb of New York Ave. from Beech St. twenty-five (25) feet in a southerly direction, and between Beech St. and Broadway from 6:00 p.m. to 6:00 a.m. The south curb of Park Ave. for a distance of fifty (50) feet west from Minnesota Ave. The north curb of Park Ave. for a distance of fifty (50) feet east from Minesota Ave.

(d) The north side of West Park Ave. from the corner of Center St. fifteen (15) feet east and from the corner of Station Place fifteen (15) feet west.

(e) Inside or across white lanes marking off any crosswalk or fire hydrant line, or outside or across white lines marking off parking spaces.

(f) Entrances to places of public assembly as follows: The south side of

West Beech St. from Tennessee Ave. running east forty (40) feet; the north side of East Park Ave. from a point one hundred (100) feet west of Long Beach Blvd. running west sixty (60) feet; the south side of West Park Ave. from Laurelton Blvd. west one hundred (100) feet; the north side of Harrison St. from the west side of Long Beach Blvd. running west two hundred (200) feet.

The entrance to any hotel, boarding house or apartment house as authorized by the chief of police.

(g) West side of National Blvd. one hundred fifty (150) feet south from West Chester St.; north and south curbs of West Chester St. from Center St. to National Blvd.

(h) East and west curbs on all boulevards from Roosevelt Blvd. to Grand Blvd., inclusive, south of Park Ave.

(i) North curb of Front St. from Lincoln Blvd. to Roosevelt Blvd.

(j) East and west side of the following streets and avenues as indicated by police signs: Florida, Kentucky, Louisiana, Michigan, New Hampshire, Vermont, Wisconsin, Alabama, Oregon, Nebraska and California.

(k) In the municipal parking lot on Center St. between the hours of 4:00 a.m. and 6:00 a.m. and no commercial vehicles shall park therein at any time.

(l) The east and west curbs of Laurelton Blvd. between Park Ave. and Chester St.

(m) East curb of Monroe Blvd. from Chester St. to Park Ave.

(n) North curbs of East Bay Drive from Monroe Boulevard to Neptune Boulevard.

(o) West curb of the following streets, from Chester Street north to the Bay:

(1) Forrester Street.

(2) Doyle Street.

(3) Armour Street.

(4) Kerrigan Street.

(5) Dalton Street.

(6) Heron Street.

(7) Barnes Street.

(8) Farrell Street.

(9) Vinton Street.

(10) Clark Street.

(11) Harmon Street.

(Code 1957, § 8-133.3; Ord. No. 1203/74, § 1(b), 2-5-74; Ord. No. 1212/74, § 1, 3-5-74; Ord. No. 1271/75, § 1, 2-4-75; Ord. No. 1275/75, § 1, 4-3-75)

Sec. 15-171. Parking prohibited at all times on certain streets.

Sec. 15-172. Stopping, standing or parking prohibited; no signs required.

(a) No person shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device whether or not signs are erected in any of the following places:

(1) On a sidewalk;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen (15) feet of a fire hydrant;

(5) On a cross walk;

(6) Within ten (10) feet of a cross walk at an intersection;

(7) Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;

(8) Within fifty (50) feet of the nearest rail of a railroad crossing;

(9) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(11) On a roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) At any place where official signs or markings prohibit stopping.

(14) Opposite a public or private driveway on streets less than thirty (30) feet in width.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

(Code 1957, § 8-131.1; Ord. No. 1203/74, § 1(c), 2-5-74)

Sec. 15-173. Parking prohibited during certain hours on certain streets.

When signs are erected in any block giving notice thereof, no person shall park a vehicle between the hours specified of any day within the following districts or upon any of the following streets:

(a) At the following locations for more than one hour between the hours of 8:00 a.m. and 9:00 p.m.; east side of Park Place from Park Avenue to East Fulton Street.

North sidewalk curb of Park Avenue from a point four hundred (400) feet east of Laurelton Boulevard to National Boulevard.

South sidewalk curb of Park Avenue from a point four hundred (400) feet east of Laurelton Boulevard to National Boulevard. (Code 1957, § 8-134)

North and south side of West Beech St. from Alabama St. to Georgia Ave.

(b) At the following locations for more than two (2) hours between the hours of 8:00 a.m. and 9:00 p.m., all streets in the City of Long Beach east of Washington Blvd. and west of Neptune Blvd. and south of Market St., except in those areas for which specific lesser limitations are set forth herein and except in those areas which are equipped with parking meters, and except on the north and south sidewalk curbs of West Park Ave. westerly from a point four hundred (400) feet east of Laurelton Blvd.

Sec. 15-173.1. Parking prohibited on certain days during certain times on certain streets.

Where signs are erected giving notice thereof, no person shall park a vehicle in the following designated locations during the following designated times:

(a) On East Park Avenue from Long Beach Boulevard to Maple Boulevard on the south side of the avenue from 12:01 a.m. to 7:00 a.m. on Mondays.

(b) On East Park Avenue from Long Beach Boulevard to Maple Boulevard on the north side of the avenue from 12:01 a.m. to 7:00 a.m. on Tuesdays.

(c) On Park Avenue from Long Beach Boulevard to Lafayette Boulevard, on both sides of said avenue, every day from 5:01 a.m. to 7:00 a.m.

(d) On Walnut Street from Long Beach Boulevard to Magnolia Boulevard on the south side of Walnut Street from 9:00 a.m. to 12:00 p.m. on Tuesdays.

(e) On Walnut Street from Long Beach Boulevard to Magnolia Boulevard on the north side of Walnut Street from 9:00 a.m. to 12:00 p.m. on Thursdays.

(f) On Olive Street from Long Beach Boulevard to Magnolia Boulevard on the south side of Olive Street from 9:00 a.m. to 12:00 p.m. on Tuesdays.

(g) On Olive Street from Long Beach Boulevard to Magnolia Boulevard on the north side of Olive Street from 9:00 a.m. to 12:00 p.m. on Thursdays.

(h) On Beech Street from Long Beach Boulevard to Magnolia Boulevard on the south side of Beech Street from 9:00 a.m. to 12:00 p.m. on Tuesdays.

(i) On Beech Street from Long Beach Boulevard to Magnolia Boulevard on the north side of Beech Street from 9:00 a.m. to 12:00 p.m. on Thursdays.

(j) On Shore Road from Riverside Boulevard to Pacific Boulevard on the south side of Shore Road from 9:00 a.m. to 12:00 p.m. on Tuesdays.

(k) On Shore Road from Riverside Boulevard to Pacific Boulevard on the north side of Shore Road from 9:00 a.m. to 12:00 p.m. on Thursdays.

(l) On Riverside Boulevard, Edwards Boulevard and National Boulevard,

between Beech Street and Park Avenue, adjacent to any mall, on Mondays through Fridays, inclusive, between the hours of 6:00 a.m. and 9:00 a.m.

(m) On the south sides of Chester Street, Market Street, Hudson Street, Fulton Street and Pine Street from Long Beach Boulevard to Park Place, from 9:00 a.m. to 12:00 p.m. on Tuesdays.

(n) On the north sides of Chester Street, Market Street, Hudson Street, Fulton Street and Pine Street, from Long Beach Boulevard to Park Place, from 9:00 a.m. to 12:00 p.m. on Thursdays.

(Ord. No. 1342/77, § 1, 7-5-77; Ord. No. 1343/77, § 1, 10-5-77; Ord. No. 1524/83, § 1, 12-20-83; Ord. No. 1748/91, § 1, 4-16-91; Ord. No. 1766/91, § 1, 11-19-91; Ord. No. 1791/92, § 1, 11-4-92)

Editor's note: Section 1 of Ord. No. 1766/91, adopted Nov. 19, 1991, repealed subsections (a)--(c) and added subsections (a)--(k) but failed to address former subsection (d), which was added by Ord. No. 1748/91. The editor has redesignated that subsection as subsection (l).

Sec. 15-174. Identification of commercial vehicles.

Every commercial vehicle operating on the streets of the City of Long Beach shall at all times display permanently, plainly marked on both sides in letters and numerals not less than three (3) inches in height, the name and address of the owner thereof.

(Code 1957, § 8-136.2(a); Ord. No. 1203/74, § 1(e), 2-5-74)

Sec. 15-175. Vehicle unattended.

It shall be unlawful for any person driving or in charge of a motor vehicle to permit it to stand unattended for more than three (3) minutes on the streets or thoroughfares of the City of Long Beach without first stopping the engine, locking the ignition, and removing the key.

(Code 1957, § 8-136.2(b); Ord. No. 1203/74, § 1(f), 2-5-74)

Sec. 15-175.1. Application of article.

The provisions of this article prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

(Code 1957, § 8-133.1)

Sec. 15-175.2. Regulations not exclusive.

The provisions of this article imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places at specified times.

(Code 1957, § 8-133.2)

Sec. 15-175.3. Angled Parking Spaces; Head-In Parking.

All vehicles in angled parking spaces shall park front end first. Any violation of this section shall be punishable in accordance with Section 15-22 of this chapter.

(Ord. No. 3062/22, § 1, 6/7/2022)

DIVISION 2. RESIDENT PARKING*

***Editor's note:** Former Art. V, Div. 2, §§ 15-176--15-180, relative to commuter parking, was repealed by § 1 of Ord. No. 1481/82, adopted Aug. 2, 1982. Said former sections derived from Ord. No. 1361/78, § 1, adopted April 18, 1978; Ord. No. 1374/78, § 1, adopted Aug. 1, 1978 and Ord. No. 1395/79, §§ 1, 2, adopted June 5, 1979.

Sec. 15-176. Location of parking fields.

This division shall apply only to the city-owned and/or leased parking fields situated at the following locations and any parking field that the City shall designate on a temporary basis:

(a) The northwest corner of Long Beach Boulevard and East Walnut Street.

(b) The northwest corner of Georgia Avenue and West Beech Street.

(c) The southwest corner of Maryland Avenue and West Beech Street.

(d) The southwest corner of Vermont Street and West Beech Street.

(e) The southeast corner of Connecticut Avenue and West Beech Street.

(f) The southwest corner of Virginia Avenue and West Beech Street.

(g) The lot located on the south side of the 200 block of Shore Road (a/k/a 235 East Boardwalk).

(Ord. No. 1626/87, § 1, 6-2-87; Ord. No. 1865/96, § 1, 9-17-96; Ord. No. 1900/98, § 1, 8-18-98; Ord. No. 2024/07, § 1, 12-4-07; Ord. No. 2045/2009, § 1, 12-1-2009; Ord. No. 3052/21, 07-06-2021)

Sec. 15-177. Parking limited.

(a) No motor vehicle shall be parked nor stand in any of the aforementioned parking fields for more than two (2) hours between the hours of 8:00 a.m. and 8:00 p.m., Mondays through Fridays, excepting holidays.

(b) No motor vehicle shall be parked nor stand in any of the aforementioned parking fields between the hours of 8:00 p.m. and 8:00 a.m. on Mondays through Fridays, and all day on Saturdays, Sundays and holidays, except a private passenger vehicle owned by and registered in the name of a resident of the City of Long Beach, attested as to name and address by the registration certificate of said vehicle, or such other proof of residency acceptable to the city clerk, and for which vehicle a parking permit has been issued in accordance with the provisions of section 15-178.

(Ord. No. 1626/87, § 1, 6-2-87; Ord. No. 1823/94, § 1, 11-1-94; Ord. No. 1844/95, § 1, 7-5-95)

Sec. 15-178. Parking permits; restrictions, fees, terms.

(a) All parking permits hereunder shall be issued by the city clerk's office in accordance with the applications and forms therefor approved by the police commissioner.

(b) All vehicles for which such permit shall be issued shall have affixed to the rear bumper a sticker bearing the permit number issued by the city clerk's office.

(c) The parking permit year shall commence January 1 and terminate on December 31.

(d) There shall be an annual fee of fifty dollars ($50.00) for each parking permit issued hereunder. For low-emission and energy-efficient vehicles (as defined in Sec. 15-180), there shall be a twenty (20%) percent fee reduction.

(e) No vehicle with a parking permit issued hereunder shall park or stand in any of the aforesaid parking fields continuously for a period of time exceeding fourteen (14) hours on week days and twenty-four (24) hours on weekends and holidays, without changing the location of such vehicle.

(Ord. No. 1823/94, § 2, 11-1-94; Ord. No. 1844/95, § 2, 7-5-95; Ord. No. 2024/07, § 1, 12-4-07; Ord. No. 2032/08, § 1, 11-18-08; Ord. No. 2090/14, § 1 ,6/17/2014; Ord. No. 3019/17, § 1 , 9-19-2017)

Sec. 15-179. Rules and regulations.

The city manager may promulgate such rules and regulations as he shall deem suitable and advisable for the orderly and expedient use of said resident parking fields, and such rules and regulations, when filed in the office of the city clerk, shall supplement this division with the same force and effect as if they were a part hereof.

(Ord. No. 1626/87, § 1, 6-2-87; Ord. No. 1823/94, § 3, 11-1-94)

DIVISION 3. COMMUTER PARKING

Sec. 15-180. Definitions.

Unless otherwise expressly provided, the following words, for the purpose of this division, shall have the meaning herein indicated:

Commercial vehicles. Any vehicle, regardless of the type of plate displayed thereon, designed, used, constructed or equipped for the transportation of goods, wares or merchandise in trade or commerce or for the transportation of property.

Commuters' parking fields. The municipal parking field and garage portion thereof which abuts the Long Island Railroad Terminus on the west, Centre Street on the east, and consists of three hundred forty-two (342) regular spaces and nine (9) handicapped spaces. The parking area along the curb located on the western portion of Rev. JJ Evans Boulevard which abuts the Long Island Railroad tracks from East Park Avenue to East Fulton Street.

Low-Emission and Energy-Efficient Vehicles. Low-emission and energy-efficient vehicles are those which are eligible to participate in the New York State Department of Transportation's Clean Pass Vehicle program. A list of eligible cars is currently found at: https://www.dot.ny.gov/programs/clean-pass.

Parking stall. A space in the commuter parking field, marked or indicated, within which a single motor vehicle is to be parked.

(Ord. No. 1702/89, § 1, 6-20-89; Ord. No. 1925/99, § 2, 9-21-99; Ord. No. 1977/04, § 1, 4-7-04; Ord. No. 2034/09, § 1, 1-20-09; Ord. No. 3019/17, § 1 , 9-19-2017)

Sec. 15-181. Parking permits required; commuters' parking field.

All parking permits shall be issued by the city clerk's office in accordance with the applications and forms therefor approved by the police commissioner, and all vehicles for which such permit shall be issued shall have conspicuously displayed and hung on the rear view mirror of the vehicle said permit or hangtag issued by the city clerk's office and bearing the number of the license plate of the vehicle and the year for which same shall be issued.

(Ord. No. 1702/89, § 1, 6-20-89; Ord. No. 1728/90, § 1, 7-17-90)

Sec. 15-182. Parking permits; restrictions, fees, terms.

(a) Parking permits shall be issued only for noncommercial vehicles. No commercial vehicle shall be permitted to park in the commuter parking fields.

(b) No parking permit shall be issued hereunder unless the fees hereinafter provided for are first paid by the licensee.

(c) The said parking permit or hangtag may be transferred by the owner of one motor vehicle to another motor vehicle owned by the same owner or a member of the owner's family, in which case both license plate numbers will be entered on said parking permit.

(d) No parking permit shall be transferable from the owner of a vehicle to another owner of said vehicle without the return of the original parking permit and the reapplication for a new parking permit from the city clerk.

(e) The parking permit year shall commence July 1 of each year and terminate on the last day of June the following year.

(f) Prior to the issuance of any parking permit hereunder, the applicant must furnish the city clerk's office with proof satisfactory to it that the applicant is qualified to receive the parking permit for which the application is made.

(g) The fees for an annual parking permit (July 1st to June 30th) required by the provisions of this division shall be two hundred fifty dollars ($250.00) for residents and three hundred dollars ($300.00) for nonresidents, or at levels fixed from time to time by the city council. The fees for annual parking permits may be pro-rated for the balance of the year on a monthly basis at a rate of twenty-five dollars ($25.00) for residents and thirty dollars ($30.00) for non-residents. The fees for an annual parking permit for a low-emission and energy-efficient vehicles shall be reduced by twenty (20%) percent. Notwithstanding anything set forth above, any fee changes or modifications set forth herein shall refer to, affect, and reduce only the City's portion of the proceeds generated through sales of parking passes, and shall have no impact whatsoever on the fees owed and payable to the Metropolitan Transportation Authority and/or the Long Island Railroad.

(Ord. No. 1702/89, § 1, 6-20-89; Ord. No. 1728/90, § 2, 7-17-90; Ord. No. 1854/96, § 1, 6-18-96; Ord. No. 1925/99, § 1, 9-21-99; Ord. No. 1977/04, § 1, 4-7-04; Ord. No. 1992/04, § 1, 9-21-04; Ord. No. 3019/17, § 1 , 9-19-2017)

Sec. 15-183. Parking limited.

(a) No vehicle which is not so licensed may be parked in the commuters' parking field at any time between the hours of 5:00 a.m. and 10:00 a.m. from Monday to Friday, inclusive. At all other hours and on all other days, any vehicle may be parked in any vacant parking stall without any charge or fee, except as otherwise posted by order of the city manager.

(b) Reserved.

(Ord. No. 1702/89, § 1, 6-20-89; Ord. No. 1749/91, § 1, 4-16-91; Ord. No. 1925/99, § 1, 9-21-99; Ord. No. 1977/04, § 1, 4-7-04)

Sec. 15-184. Rules and regulations.

(a) All automobiles must be parked in accordance with the rules and regulations enacted for the operation of municipal parking fields, and automobiles parked in the commuter parking field shall be parked in a parking stall and in no other area. No automobile shall be parked or permitted to stand in any lane or driveway of the parking field.

(b) All vehicles shall be parked head-in only.

(c) Only two-axle passenger vehicles used and operated for noncommercial purposes shall be permitted to park in the commuter parking fields. It shall be unlawful for any person to park in the commuter parking fields any delivery truck,

wagon or other commercial vehicle or trailer.

(d) The police commissioner is authorized to designate by regulation any safety zone, parking space, parking areas parking time limitations or other traffic regulations within any public parking field, in addition to those otherwise provided for in this division and limiting or prohibiting parking in those zones, spaces and areas, and a violation of any such regulation marked and indicated by suitable signs shall constitute a violation of this division.

(e) Any vehicles parked in violation of this section may be towed away and impounded according to police department rules.

(Ord. No. 1702/89, § 1, 6-20-89; Ord. No. 1925/99, § 1, 9-21-99; Ord. No. 1977/04, § 1, 4-7-04)

Sec. 15-185. Metered parking.

The city may provide parking spaces regulated by a metering device. The fee for utilizing these spaces shall be fifty cents ($.50) per hour. The meters shall be in effect weekdays from 5:00 a.m. to 5:00 p.m. from the Tuesday following Labor Day until May 31st. The meters shall be in effect weekdays as well as weekends from 5:00 a.m. to 5:00 p.m. from June 1st through Labor Day. A vehicle displaying a valid parking permit shall be exempt from paying the metered fees.

(Ord. No. 1977/04, § 1, 4-7-04)

Secs. 15-186--15-201. Reserved.

DIVISION 4. COMMERCIAL PERMIT PARKING

Sec. 15-188. Location of Commercial Parking Area(s).

Commercial Parking Area(s) shall mean:

(a) Park Place between Long Beach Blvd (Marginal Road) and Riverside Boulevard as indicated by appropriate signs; and

(b) Riverside Boulevard one block north and south of Park Place as indicated by appropriate signs.

(Ord. No. 3039/20, § 1, 11-17-2020)

Sec. 15-189. Parking limited.

(a) No motor vehicle shall be parked nor stand in a Commercial Parking Area at any time, except a commercial vehicle, truck, bus, school car, limousine or livery vehicle for which a vehicle parking permit has been issued in accordance with the provisions of this Division.

(b) No commercial vehicle, truck, bus, school car, limousine or livery vehicle, regardless of permit, shall park in the Commercial Parking Area(s) during prohibited times as indicated by appropriate street signage.

(Ord. No. 3039/20, § 1, 11-17-2020)

Sec. 15-190. Parking permits; restrictions, fees, terms.

(a) All commercial parking permits hereunder shall be issued by the City Clerk's office in accordance with the applications and forms therefor approved by the Police Commissioner.

(b) Permitted vehicles shall have affixed to the rear driver’s side bumper or to a visible location on the driver’s side of the vehicle, a sticker bearing the permit number issued by the City Clerk's office.

(c) The parking permit year shall commence January 1 and terminate on December 31.

(d) Annual commercial permit fees shall be as follows:

(1) Five hundred dollars ($500.00) for each parking permit issued to a City of Long Beach resident or City of Long Beach based business; and

(2) Seven hundred and fifty dollars ($750.00) for all other applicants.

(e) An administrative processing fee of twenty dollars ($20) will be charged for replacement permits.

(f) Permits may only be issued to commercial vehicles, trucks, buses, school cars, limousines or livery vehicles under twenty (20) feet in length. Trailers are ineligible for a permit and persons may not park, stand or stop their trailers in a Commercial Parking Area.

(Ord. No. 3039/20, § 1, 11-17-2020)

Sec. 15-191. Rules and regulations.

The City Manager may promulgate such rules and regulations as he/she shall deem suitable and advisable for the orderly and expedient use of Commercial Parking Areas, and such rules and regulation, when filed in the office of the City Clerk, shall supplement this division with the same force and effect as if they were a part hereof.

(Ord. No. 3039/20, § 1, 11-17-2020)

ARTICLE VI. MOTOR VEHICLES

DIVISION 1. ABANDONED VEHICLES

Sec. 15-202. Abandonment of vehicle.

No person shall cause any vehicle to be an abandoned vehicle, as defined in Section 1224 of the New York State Vehicle and Traffic Law. A violation of this section 15-202 shall be punishable by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00).

(Ord. No. 1687/89, § 1, 1-24-89)

Secs. 15-203--15-208. Reserved.

DIVISION 2. IMMOBILIZATION AND REMOVAL OF ILLEGALLY PARKED VEHICLES

Editor's note: Division 2 pertaining to Impoundment was repealed in its entirety by Ord. No. 3056/21 adopted 08-17-2021.

Sec. 15-209. Definitions.

(a) "Immobilize" or "immobilization" shall mean the act of placing on a parked motor vehicle a mechanical device known as a boot, designed to be attached to the wheel or tire or other part of such vehicle so as to prohibit its usual manner of movement.

(b) "Remove" or "removal" shall mean the act of towing a parked motor vehicle, which shall be placed and stored in a location designated by the Police Department or Fire Department and shall be held until it is released or disposed of pursuant to applicable law.

(Ord. No. 3056/21, 08-17-2021)

Sec. 15-210. Grounds For Removal and/or Immobilization; General Provisions.

(a) Grounds for Immobilization/Removal. The following vehicles shall be subject to removal and/or immobilization:

(1) Any vehicle found parked or standing in violation of any of the provisions of this chapter or other city ordinance.

(2) Any vehicle found parked or abandoned on public highways during a snowstorm, flood, fire or other public emergency.

(3) Any vehicle left parked or standing on a public highway for two (2) days or more without proper registration plates.

(4) Any vehicle taken into custody by law enforcement officials having probable cause to believe that it is being used in the commission of a

crime. Removal of such vehicle shall be made to the city yard or to such other place as the Commissioner of Police may direct and such removal shall be at the risk of the owner of said vehicle.

(5) Vehicles which have three (3) or more outstanding and unpaid parking violations issued against them and which, after mailing to the registered owner a final notice, at the address provided by the Department of Motor Vehicles records, are found operated or parked on any public street, public highway, roadway, any portion of the entire width between the boundary lines of any way publicly maintained or on any property owned, leased by, or in the possession and control of, the City of Long Beach. A parking violation is deemed outstanding when said violation has not been answered by the required appearance date.

(6) Vehicles operated by an individual in violation of Articles 19 or Article 20 of the New York State Vehicle and Traffic Law (e.g., unlicensed operation, aggravated unlicensed operation).

(7) Vehicles operated by an individual in violation of Article 31 of the New York State Vehicle and Traffic Law where no likelihood of vehicle forfeiture exists (e.g., operating a vehicle under the influence of alcohol or drugs or driving while ability impaired).

(8) The Police Department, at the direction of the Commissioner of Police, may immobilize and/or remove, any vehicle parked illegally or in violation of any city code, county ordinance, state law or regulation, or where such removal and/or immobilization is required for public safety.

(b) Removal following immobilization. Where a vehicle is immobilized and the owner or other person entitled to possession of the vehicle is properly notified pursuant to this division, if all fees are not paid, thereby releasing the vehicle within seventy-two (72) hours, the vehicle may be removed and conveyed, by or under the direction of a member of the police department or the fire department, by means of towing, or otherwise, to the city yard or to such other place as the commissioner of police may direct and there stored; and such removal, conveyance and storage shall be at the risk of the owner of the vehicle.

(c) Place of storage; Removal without Notice. The Police Department may transport to, and store, any immobilized vehicle to the City yard, or other such location as directed by the Commissioner of Police, without notice pursuant to this section if said vehicle poses a risk to public safety. Thereafter, the Police Department shall document the reason any such vehicle was transported and/or stored and provide notification pursuant to this division as soon as practicable.

(d) Custody. For the purpose of custody, any vehicle removed or immobilized pursuant to this division shall be deemed to be in the custody of the Commissioner of Police.

(Ord. No. 3056/21, 08-17-2021; Ord. No. 3067/21, 09-20-2022)

Sec. 15-211. Immobilization and/or Removal; Notice and Penalties.

(a) Within twenty-four (24) hours after towing, the Police Department shall notify the owner of such vehicle by telephone or by registered mail, of the fact of its towing

or immobilization, the place where it may be recovered and the conditions under which it will be released.

(b) Additionally, when a vehicle is immobilized, the Police Department shall cause to be attached to the immobilized vehicle a notice containing the following information, in such form as directed by the Commissioner of Police:

(1) The location and identifying characteristics of the vehicle;

(2) The dates and time of placement of the devices and the signature of the installer of the device;

(3) Notice that further parking penalties will be waived while the vehicle is immobilized;

(4) Notice that any person tampering with the device or vehicle will be subject to criminal prosecution as provided in paragraph (ii) of this subsection, as well as civil liability for any loss to the City of Long Beach due to damage to or theft of the device;

(5) The steps that the owner must take to obtain release of the vehicle; and

(6) Such other information, statements, notices and/or warnings as the Police Department may from time to time determine.

(c) Any person who tampers with, defaces, damages, removes or destroys an immobilization device or moves by any means a vehicle immobilized as herein provided shall be guilty of a violation and subject to the penalty provided for in Section 15-22 of this Chapter. The owner of such vehicle may, as a defense, plead and prove that at the time of such removal or damage, such vehicle was stolen, but only if, prior to such act or acts, notice of a stolen vehicle has been given to the applicable police authority.

(Ord. No. 3056/21, 08-17-2021)

Sec. 15-212. Procedure for Redemption; Release; Charges

(a) Before the owner or any other person entitled to possession of a vehicle removed or immobilized pursuant to this division shall be permitted to repossession thereof, that person or authorized agent shall furnish satisfactory evidence of his or her identity and ownership or authorization from the owner to obtain the release of such motor vehicle, and shall make payment to the City of Long Beach for charges incurred in the immobilization or removal of such vehicle, as well as applicable administrative charges under this division. No such vehicle shall be released until the owner or authorized agent has established his or her identity and right to possession and has signed a proper receipt therefor.

(b) Charges for Removal. The owner or other person entitled to possession of a vehicle removed pursuant to this division shall pay to the City of Long Beach a fee of one hundred twenty dollars ($120.00) to cover administrative costs, as well as towing and storage charges in accordance with the following schedule:

(1) For the pickup with standard equipment and towing, two hundred twenty-five dollars ($225.00), and five dollars ($5.00) for each additional mile or part thereof towed.

(2) For the pickup with required flatbed towing, and towing, two hundred seventy-five dollars ($275.00), and five dollars ($5.00) for each additional mile or part thereof towed.

(3) Outside storage charges shall be at the rate of twenty-five dollars ($25.00) for each twenty-four (24) hours or part thereof. This charge shall also apply during any period in which a vehicle is being held as evidence or in anticipation of forfeiture.

(4) Inside storage charges shall be at the rate of thirty dollars ($30.00) for each twenty-four (24) hours or part thereof.

(c) Charges for Immobilization.

(1) An owner or other person entitled to possession of an immobilized vehicle pursuant to this division shall pay a two hundred and fifty dollar ($250.00) immobilization charge to the City of Long Beach.

(2) Once properly removed in accordance with this division, immobilization devices shall returned to the Police Department within twenty four (24) hours, where applicable. Failure to do so shall result in a twenty five dollar ($25.00) per day fee for the delayed return of the immobilization device.

(3) In the event an immobilization device is not returned or is damaged, the owner or other person entitled to possession of the vehicle shall be responsible for the cost of repair or replacement of the immobilization device.

(d) Computation of Daily Charges. For the purpose of computing the charges imposed by subsections (b) and (c), the day shall be deemed to commence at 12:01 a.m. The charges shall be a lien upon the vehicle.

(e) Release of Vehicle.

(1) Before the owner or person in charge of any vehicle taken into custody, or immobilized as above provided, shall be allowed to repossess or to secure the release of said vehicle, the owner or his/her agent shall:

a) Pay any and all sums legally due for any city parking violations issued and outstanding against such vehicle, including fines and penalties;

b) Pay any and all outstanding parking summonses issued in the city against any motor vehicles registered in the name of the registered owner of the impounded motor vehicle, including fines and penalties;

c) Comply with all procedures for redemption as provided in section 15-212; and

d) Pay all charges as provided in section 15-212.

(2) Inability to comply with subsections (1)(a) and (b) – If, after paying applicable charges for removal and/or immobilization of a vehicle, the owner or person in charge of any such vehicle is unable to comply with subsections (1)(a) and (b), that individual shall be entitled to post a bond in an amount sufficient to cover such fines and/or penalties. Such bond

may be posted in cash, or by credit card via the Police Department payment kiosk. A three percent (3%) non-refundable processing cost shall be applied to credit card payments. As soon as practicable thereafter, such individual must comply with subsections (1)(a) and (b) in order to be eligible to receive a return of the posted bond.

(Ord. No. 3056/21, 08-17-2021;Ord. No. 3057/22, 02-01-2022; Ord. No. 3067/21, 09-20-2022)

Sec. 15-213. Sale of unredeemed vehicles.

Should a vehicle impounded pursuant to this division remain unclaimed or should the lien thereon remain unredeemed for a period of one month from the date of its removal, the Commissioner of Police may sell the vehicle at public sale upon publication of notice thereof by posting conspicuously in three (3) public places in the City at least six (6) days before the sale. The proceeds on the sale shall be applied first to the cost of said sale and advertisement thereof, then to the cost of storage and towage, and any surplus shall be held for the account for the owner of the vehicle by the City for a period of one year without interest.

(Ord. No. 3056/21, 08-17-2021)

Sec. 15-214. Severability.

If any part of or provisions of this division or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this division, or the application thereof to other persons or circumstances.”

(Ord. No. 3056/21, 08-17-2021)

Chapter 16 NOISE*

***Editor's note:** Ord. No. 1850/96, § 1, adopted May 21, 1996, amended the Code by repealing Ch. 16, §§ 16-1--16-39, and adding a new Ch. 16, §§ 16-1--16-21. Former Ch. 16 pertained to similar subject matter and derived from Ord. No. 1669/88, adopted July 5, 1988.

Art. I. In General, §§ 16-1--16-4
Art. II. Prohibited Acts, §§ 16-5--16-10
Art. III. Exceptions, § 16-11
Art. IV. Power, Duties and Qualifications, §§ 16-12, 16-13
Art. V. Penalties, § 16-14
Art. VI. Variances, §§ 16-15--16-21

ARTICLE I. IN GENERAL

Sec. 16-1. Short title.

This chapter shall be known and may be cited as the "City of Long Beach Noise Control Ordinance."

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-2. Declaration of policy.

It is hereby declared to be the public policy of the city to reduce the ambient noise level in the city, so as to preserve, protect and promote the public health, safety and welfare, and the peace and quiet of the inhabitants of the city, prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants, and facilitate the enjoyment of the natural attractions of the city. It is the public policy of the city that every person is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises within the city affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the city. The provisions and prohibitions hereinafter contained and enacted are for the above-mentioned purpose.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-3. Interpretation.

This chapter shall be liberally construed so as to effectuate the purposes described in this chapter. Nothing herein shall abridge the powers and responsibilities of any police department or law enforcement agency to enforce the provisions of this chapter. Nothing herein shall be construed to abridge the emergency powers of any health department or the right of such department to engage in any necessary or proper activities.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-4. Definitions and word usage.

(a) All terminology defined herein which relates to the nature of sound and the mechanical detection and recording of sound is in conformance with the terminology of the American National Standards Institute (ANSI) or its successor body.

(b) As used in this chapter, the following terms shall have the meanings indicated:

Ambient noise: The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

A-weighted sound level: The sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated "dBA".

Commercial area: A group of commercial facilities and the abutting public right-of-way and public spaces.

Commercial facility: Any premises, property, or facility involving traffic in goods or furnishings of services for sale or profit, including but not limited to:

a. Dining and/or drinking establishments;

b. Banking and other financial institutions;

c. Establishments for providing retail services;

d. Establishments for providing wholesale services;

e. Establishments for recreation and entertainment;

f. Office buildings;

g. Transportation;

h. Warehouses;

i. Hotels and/or motels.

Community service facility: Any nonresidential facility used to provide services to the public, including but not limited to:

a. Club meeting halls, offices and facilities;

b. Organization offices and facilities;

c. Facilities for the support and practice of religion;

d. Private and parochial schools.

Construction: Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, premises parks, utility lanes or other property, including but not limited to related activities such as land clearing, grading, earthmoving, excavating, blasting, filling and landscaping, but not including agriculture.

Continuous sound: Any sound that is not impulse sound.

dBA: The abbreviation designating the unit of sound level as measured by a sound level meter using the A-weighting, also known as "DBA".

Decibel: The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB."

Demolition: Any dismantling, intentional destruction, or removal of buildings or structures.

Emergency: Any occurrence or circumstances involving actual or imminent physical or property damage which demands immediate action.

Emergency warning device: Any sound signal device that is to warn of an emergency.

Emergency work: Any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging of waterways or abating life-threatening conditions.

Extraneous sound: A sound which is neither part of the neighborhood residual sound nor comes from the source under investigation.

Frequency: The number of sound pressure oscillations per second, expressed in hertz; abbreviated "Hz."

Impulse sound: Sound characterized by either a single pressure peak or a single burst (multiple pressure peaks) having a duration of less than one second.

Industrial facility: Any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

Noise: Any sounds of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the city.

Noise disturbance: Any sound which (1) endangers or injures the safety or health of humans or animals, or (2) annoys or disturbs a reasonable person of normal sensitivities, or (3) endangers or injures personal or real property.

Ocean Beach Park: As defined by section 18-13 of this Code.

Peak sound pressure level: The maximum absolute value of the instantaneous sound pressure level during a specified time interval.

Parks: As defined by sections 18-88(b) and 18-100 of this Code.

Person: Any individual, association, partnership, corporation or other entity and includes any officer, employee, department or agency of the above.

Public right-of-way: Any street, avenue, boulevard, road, highway, sidewalk, alley, or boardwalk, that is leased, owned or controlled by a governmental entity, no matter how designated.

Public service facility: Any facility and its related premises, property, or equipment used to provide governmental services to the public including, but not limited to:

a. Maintenance centers;

b. Offices and buildings of agencies or instrumentalities of government;

c. Schools.

Public service industrial facility: Any facility and its related premises, property, or equipment used to provide industrial governmental services to the public including, but not limited to:

a. Waste collection centers;

b. Waste recycling centers;

c. Water and sewage facilities.

Public space: Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

Real property line: Either (a) the imaginary line including its vertical extension that separates one parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling-unit building.

Residential area: A group of residential properties and the abutting public rights-of-way and public spaces.

Residential property: Property used for human habitation.

Sound: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include and characteristic of such sound, including duration, intensity and frequency.

Sound level: The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter: Any instrument including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner and which complies with standards established by the American National Standards Institute (ANSI) specifications for sound level meters.

Sound pressure level: The level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.

Sound reproduction device: Any device that is designed to be used or is actually used for the production or reproduction of sound, including but not limited to any amplified musical instrument, radio, televisions, tape recorder, phonograph, loudspeaker, public-address system or any other sound-amplifying device.

Sound source: Any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.

Transient sound: A sound whose level does not remain constant during measurement.

Unreasonable noise: Any sound which is defined in sections 16-6, 16-7 or 16-8 as unreasonable.

Vibration: An oscillatory motion of solid bodies of deterministic or random natures described by displacement, velocity or acceleration with respect to a given reference point.

(Ord. No. 1850/96, § 1, 5-21-96)

ARTICLE II. PROHIBITED ACTS

Sec. 16-5. Unreasonable noise prohibited.

No person shall make, cause, allow, or permit to be made any unreasonable noise within the geographical boundaries of the city or within those areas over which the city has jurisdiction, including the waters and beaches adjacent to, abutting or bordering the city.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-6. Specific acts considered to be unreasonable noise.

Any of the following acts and causes thereof which either annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities are declared to be in violation of this chapter and to constitute unreasonable noise:

A. No person shall operate or use or cause to be operated any loud speaker, public-address system or similar amplification device between the hours of 11:00 p.m. and 8:00 a.m., except when used in connection with a public emergency by officers of the police department, fire department or of any municipal entity.

B. Using or operating any sound reproduction device for commercial or business advertising purposes or for the purposes of attracting attention to any performance, show or sale or display of merchandise in connection with any commercial operation in front or outside any building, place or premises, or through any aperture of such building, place or premises, abutting on or adjacent to any public right-of-way, or in or upon any vehicle operated, standing or being in or on any public right-of-way, or from any stand, platform or other structure, or from any airplane or other device used for flying over the city, or on a boat on the waters within the jurisdiction of the city or anywhere on any public right-of-way. Nothing in this subsection is intended to prohibit sound emanating from sporting, public entertainment or other public events where such devices are used.

C. No animal or bird owner shall permit any animal to cause annoyance, alarm, or noise disturbance for more than fifteen (15) minutes at any time of the day or night, by repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property.

D. The shouting, yelling, calling, or hooting at any time or place so as to annoy or disturb the quiet, comfort and repose of a reasonable person of normal sensibilities.

E. The shouting, yelling, crying or hooting of peddlers, hawkers and vendors.

F. No person shall cause or permit the creation of any noise by means of any device or otherwise on any sidewalk, street or public place adjacent to any school, court, house of worship or public library while such facility

is in use or adjacent to any hospital or nursing home at any time, so that such sound disrupts the normal activities conducted at such facilities or disturbs or annoys persons making use of such facilities.

G. No person shall engage in, cause or permit the loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects between the hours of 8:00 p.m. and 7:00 a.m. the following day in such a manner as to cause unreasonable noise across a residential real property boundary.

H. No person shall cause or permit to be caused the sounding of any horn or other auditory signaling device on or in any motor vehicle except to serve as a warning of danger.

I. No person shall operate or permit to be operated any tools or equipment used in construction, drilling, excavations or demolition work, between the hours of 8:00 p.m. and 8:00 a.m. the following day or any time on Sunday or legal holidays prior to noon, except the provisions of this section shall not apply to emergency work.

J. No person shall cause or permit the operation of any device, vehicle, construction equipment or lawn maintenance equipment, including but not limited to any diesel engine, internal combustion engine or turbine engine, without a properly functioning muffler, in good working order and in constant operation regardless of sound level produced.

K. Any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-7. Maximum permissible continuous sound levels.

In addition to those specific prohibitions set forth in section 16-6 hereof, the following general prohibitions regarding continuous sound levels shall apply in determining unreasonable noise:

A. No person shall make, cause, allow, or permit the operation of any source of sound on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the particular continuous sound level limits set forth in table 16-1 below when measured at or within the real property line of the receiving property except as provided in subsections (2) and (3).

B. When measuring noise within a dwelling unit of a multi-dwelling-unit building, all exterior doors and windows shall be closed and the measurements shall be taken in the center of the room.

C. When measuring on Ocean Beach Park noise shall be measured at the center of the boardwalk at a point directly perpendicular to the source.

(Ord. No. 1850/96, § 1, 5-21-96)

Table 16-1. Maximum Permissible Continuous Sound Levels by Receiving Property

Category, in dBA

Sound Source Property Category	Another Dwelling-Within a Multidwelling Unit Building		Residential		Commercial or Public Service or Community Service Facility	Industrial or Public Service Industrial Facility	Ocean Beach Park or Parks
	(7am -10pm)	(10pm – 7am)	(7am-10pm)	(10pm-7am)	(All times)	(All times)	(6am-11pm)
Any location within a multidwelling unit building	50	45	65	50	70	75	65
Residential (or public spaces or rights-of-way)			65	50	70	75	65
Commercial or public service or community service facility			65	50	70	75	65
Industrial or public service industrial facility			65	50	70	75	65

Sec. 16-8. Maximum permissible impulsive sound levels.

In addition to those specific prohibitions set forth in section 16-6 hereof, the following general prohibitions shall apply regarding impulsive sound levels in determining unreasonable noise:

No person shall make, cause, allow or permit the operation of any impulsive source of sound within any and all property in the city which has a peak sound pressure level in excess of eighty (80) dBA. If an impulsive sound is the result of the normal operation of an industrial or commercial facility and occurs more frequently than four (4) times in any hour the levels set forth in Table 16-1 shall apply.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-9. Motor vehicles.

A. Motor vehicle sound levels limits and equipment shall be in compliance with provisions of any state law including but not limited to Sections 386 and 375 of the New York State Vehicle and Traffic Law.

B. No person shall operate a vehicle in such a manner as to cause unreasonable noise by spinning or squealing the tires of such vehicle.

C. No person shall allow noise from an automobile alarm in excess of five (5) minutes after it has been activated.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-10. Vessels and boats.

A. Vessel and boat sound level limits and equipment shall be in compliance with provisions of any state law including but not limited to Section 44 of the New York State Navigation Law.

B. No person shall operate or permit to be operated any vessel, boat, jet ski or similar machinery in any canal, channel, ocean or tidal waterway at any time, at any speed and at any manner whatsoever, as to exceed a sound level of sixty-five (65) dB(A) at the nearest shoreline or at fifty (50) feet, whichever distance is less.

(Ord. No. 1850/96, § 1, 5-21-96)

ARTICLE III. EXCEPTIONS

Sec. 16-11. Exceptions.

Regardless of the decibel limits, the provisions of this chapter shall not apply to:

A. Sound and vibration emitted for the purpose of alerting people in an emergency.

B. Sound and vibration emitted in the performance of correcting an emergency.

C. Sounds created by church bells or chimes, when a part of a religious observance or service, provided such activity does not occur between 10 p.m. and 7 a.m.

D. Sounds created by any government agency by the use of public warning devices.

E. Noise from domestic power tools, lawn mowers, leaf blowers and agricultural equipment when operated with a muffler between the hours of 8:00 a.m. and 8:00 p.m. on weekdays and 9:00 a.m. and 8:00 p.m. on weekends and legal holidays, provided they produce less than seventy-five (75) dBA at or within any real property line of a residential property.

F. Noise from snow blowers, snow throwers, and snow plows when operated with a muffler for the purpose of snow removal.

G. Noise from an exterior burglar alarm of any building or motor vehicle provided such burglar alarm shall terminate its operation within five (5) minutes after it has been activated.

H. Noise from construction activity provided all motorized equipment used in such activity is equipped, where applicable, with functioning mufflers, except as provided in section 16-6.

I. Noise generated by municipality sponsored concerts and events designed to promote the health, safety or welfare of the citizens of Long Beach.

(Ord. No. 1850/96, § 1, 5-21-96; Ord. No. 1911/99, § 1, 3-16-99)

ARTICLE IV. POWER, DUTIES AND QUALIFICATIONS

Sec. 16-12. Enforcement and administration.

The noise control requirements established by this chapter shall be administered and enforced jointly by the Long Beach police department, Long Beach building department, Long Beach department of public works and such other employees and/or officials authorized by the City Manager. Violation of any provision of this chapter shall be cause for a summons to be issued.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-13. Qualifications.

Persons shall be considered qualified to make noise measurements and to enforce all portions of this chapter, who have satisfactorily completed the community noise enforcement course offered by the Department of Environmental Sciences of Cook College, Rutgers, the State University, and the required recertification course every two (2) years or any other accredited course selected by the city manager.

(Ord. No. 1850/96, § 1, 5-21-96)

ARTICLE V. PENALTIES

Sec. 16-14. Penalties.

Any person who violated any provision of this chapter shall be deemed guilty of an offense and, upon conviction thereof, shall be subject to penalties in the following manner:

(1) Upon a first conviction, by a fine not less than fifty dollars ($50.00) and not more than two-hundred fifty dollars ($250.00) or by imprisonment for a period not to exceed seven (7) days or by both such fine and imprisonment.

(2) Upon a second conviction, by a fine not less than one hundred dollars ($100.00) and not more than one thousand dollars ($1,000.00) or by imprisonment for a period not to exceed ten (10) days or by both such fine and imprisonment.

(3) Upon a third or subsequent conviction, by a fine not less than two hundred fifty dollars ($250.00) and not more than three thousand dollars ($3,000.00) or by imprisonment for a period not to exceed fifteen (15) days or by both such fine and imprisonment.

(4) If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense.

(Ord. No. 1850/96, § 1, 5-21-96)

ARTICLE VI. VARIANCES

Sec. 16-15. Application for special variance.

The city council shall have the authority to grant special variances for limited times and purposes of this chapter. Any person seeking a special variance pursuant to this section shall file an application with the council. The application shall consist of a letter signed by the applicant and shall contain a legal form of verification. Such letter shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship of the applicant, on the community or on other persons. In addition, the following information shall be provided:

A. The plans, specifications and any other information pertinent to the source of sound and vibration.

B. The characteristics of the sound and vibration emitted by the source, including but not limited to the sound levels, the presence of impulse sounds or discrete (pure) tones, the day(s) and hours during which such vibration and sound is generated.

C. The noise abatement and control methods used to restrict the emissions of the sound and vibration.

D. A time schedule for the installation of noise abatement and control devices, technology and procedures or process modifications that will be followed to restrict the emissions of sounds and vibrations.

E. The name and address of the applicant and the applicant's agent, if any, and whether the applicant is the owner, lessee, licensee, etc., of the premises. If the applicant is not the owner, the application must contain the written consent of the owner.

F. The names and addresses of all owners of contiguous land within five hundred (500) feet of the premises. The applicant in like manner shall give notice of the application by certified mail return receipt requested to all property owners surrounding the sound source site within a radius of five hundred (500) feet from the borders of said site.

G. A filing fee of twenty-five dollars ($25.00).

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-16. Public hearing and decision.

Upon prior reasonable public notice published in the official newspaper of the City of Long Beach and upon a public notice board designated for that purpose by the city clerk in the city office of the general vicinity thereof for a minimum of ten (10) days, the city council shall hold a public hearing on the special variance application. The council, upon reviewing all input from the public hearing and obtaining any additional data or information as deemed necessary, shall then pass upon the application by resolution. The decision shall be transmitted to the city clerk, who will advise the

applicant of such decision by transmitting a copy of the special variance application to the applicant, with the decision and conditions, if any, imposed by the city council attached.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-17. Applicant to obtain other necessary permits.

This chapter does not preclude the necessity of the applicant to obtain the approval or permit required by any other agency before proceeding with the action approved under the approved special variance. No action may be initiated by the applicant until such time that other permits, as may be required, are issued.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-18. Variance to be available for inspection.

The applicant or his agent shall have readily available the approved special variance at the location or site for which the variance has been issued and shall show same to any agent of the city whenever requested.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-19. Activity open to inspection.

Activity conducted under the special variance shall be open to inspection at any time by any agent of the city.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-20. Powers and duties of the city council.

A. In determining whether to grant or deny the application, the council shall balance the hardship to the applicant, the community and other persons of not granting the variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on the property affected and any other adverse impacts of granting the special variance.

B. In connection with this section the council shall cause the taking of sound level readings in the event that there shall be any dispute as to the sound levels prevailing or to prevail at the sound source site.

C. The council shall have the power to impose restrictions, conditions and the recording of covenants upon any sound source site including time limits on permitted activity in the event that it shall grant any variance hereunder.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-21. Severability.

If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the chapter shall not be invalidated.

(Ord. No. 1850/96, § 1, 5-21-96)

Sec. 16-21. Severability.

Chapter 17 OFFENSES--MISCELLANEOUS*

***Cross references:** Unlawful distribution of handbills, § 3-1; obscene advertising, § 3-20; air pollution, Ch. 4; dogs running at large, § 5-17; motor vehicles and traffic, Ch. 15; noise, Ch. 16; swimming in water adjacent to the city prohibited, § 18-1.

Sec. 17-1. Excavations of sand, topsoil and other earthen materials.

(a) An excavation made for the purpose of taking soil, earth, sand, gravel or other material, shall be made in such a manner as will prevent injury to neighborhood properties, to the street or streets which adjoin the lot where such excavation is made, or to the public health and comfort.

(b) Excavations for the purpose of taking soil, earth, sand, gravel or other material shall not be commenced until a permit therefor has been obtained from the building commissioner. Application for the permit shall be in such form as the building commissioner may prescribe, which application shall be accompanied by a plot plan on which is indicated the location of the plot, the exact location of the proposed excavation and the area and depth of the excavation.

(c) A permit required by subsection (b) shall be issued only upon proof by the applicant therefor that the land is free from any lien for unpaid city taxes, assessments, water or sewer charges or judgments obtained by the city.

(d) It shall be unlawful for any excavation subject to this section to exceed a depth below the grade of the street or streets adjacent thereto.

(e) Any person who shall violate any provision of this section, upon conviction thereof, shall be punished by a fine of not more than two hundred fifty dollars ($250.00), or by imprisonment of not more than fifteen (15) days, or both.

(Code 1957, § 6-305; Ord. No. 1133/72, § 1, 7-11-72)

Sec. 17-2. Possession and consumption of alcoholic beverages in public places.

(a) *Legislative intent.* It is the purpose of this section to protect the public interest, welfare, health and safety within the City of Long Beach by prohibiting the consumption of alcoholic beverages in public places within the city. The city council finds that possession of an open container of alcoholic beverage in a public place within the city has led to consumption of the same, resulting in public intoxication, disorderly conduct, disturbance of the public peace, littering of the public places and destruction of property. The city council finds further that preservation of the public health and prevention of conditions which lead to conduct disturbing the public peace attributable to consumption of alcoholic beverages, can be accomplished by the prohibition of consumption of alcoholic beverages in public places, and by restricting the possession of an open or unsealed container of alcoholic beverages under circumstances which indicate

that the possessor of such open or unsealed container in a public place intends to consume the same or intends to have it consumed by another person.

(b) *Definitions.* For the purposes of this section, the following words or phrases shall have the meanings ascribed to them herein. All other words or phrases shall have the meanings normally ascribed to them in regular usage:

(1) *Alcoholic beverage* shall mean and include any liquor, beer, wine, spirits, cider or other liquid or solid, patented or not, composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a human being.

(2) *Container* shall mean any bottle, can, glass, cup or other receptacle of any kind which is suitable for or used for holding any alcoholic beverage.

(3) *Public land* or *public place* shall mean and include any public highway, street, alley, sidewalk, parking area or lot, park or playground, public building, transportation facility, or any other public facility or ground, whether vacant or improved, within the geographical boundaries of the city.

(4) *City* shall mean the City of Long Beach, New York.

(5) *Event* shall mean and include a fair, picnic, block party or other community gathering in any public place or on any public land.

(c) *Prohibition.* It shall be a violation of this section for any person to:

(1) Consume any alcoholic beverage in, on or adjacent to any public land or public place within the city; or

(2) Have in his possession an open or unsealed container of an alcoholic beverage while in or upon or adjacent to any public land or public place, with the intent or purpose of consuming such alcoholic beverage himself or offering it to another for consumption in or upon or adjacent to such public land or public place.

(d) *Exceptions.* The foregoing prohibition shall not apply to consumption of an alcoholic beverage or possession for the purpose of consumption in any public place where the same is authorized by license or permit under the laws and regulations of this state and under the regulations of the city, or a gathering or function for which permission has been previously granted by the city council or the city clerk.

(e) *Intent or purpose.* For the purpose of this section, the possession by any person of an open or unsealed container containing an alcoholic beverage while in or on or adjacent to any public land or public place, who conducts himself in a manner which indicates an intention to consume such alcoholic beverage or to offer it to another for consumption in or upon or adjacent to such public land or public place, shall constitute evidence of such intent or purpose.

(f) *Application.* This section shall not apply to any person in violation of Section 1227 of the Vehicle and Traffic Law.

(g) *Permits for special events.*

(1) At least ten (10) days prior to the proposed date of an event, any person

may apply to the city clerk, on his own behalf or on behalf of an organization, for a permit to possess and consume any alcoholic beverages described herein during or in the conduct of an event.

(2) The application shall contain the following information:

a. The name of the applicant and the address and telephone number. Where the applicant is an organization, the name and address of the organization and its officers shall be given.

b. The purpose of the event, the date when it is proposed to be held, the appropriate time when this event will start and terminate, and the location of the assembly area.

c. Such other information as the city clerk may deem reasonably necessary.

(3) Where the city clerk shall determine that the proposed event is of such character, size and location as to be appropriate to and in harmony with the surrounding area and that the public health, morals, safety and general welfare of such neighborhood will not be endangered by the granting of such permit, the city clerk shall, upon payment by the applicant of a permit fee of ten dollars ($10.00), issue a permit conditioned upon the applicant's written agreement to comply with the terms of such permit.

(4) Upon a denial by the city clerk of an application made pursuant to subsection (1) hereof, the applicant may appeal the determination of the city clerk to the city council by filing a written notice of appeal for hearing by the council at its next meeting.

(h) *Inconsistency with other laws.*

(1) If any provision of this section is inconsistent with any federal or state statute, law, rule or regulation, then such statute, law, rule or regulation shall prevail.

(2) Should any section or provision of this section be declared to be unconstitutional or invalid by the courts, such decision shall not affect the validity of the balance of this section.

(i) *Penalties.* A violation of any provision of this section shall constitute an offense punishable by a mandatory fine of sixty dollars ($60.00) and a maximum fine of six hundred dollars ($600.00), or by imprisonment for a term not to exceed fifteen (15) days, or by sentencing to an educational course, or by any combination thereof. Each violation of this section shall be deemed a separate offense.

(Code 1957, § 6-221; Ord. No. 726, § 1, 7-28-64; Ord. No. 1399/79, § 1, 8-7-79; Ord. No. 1425/80, § 1, 7-15-80; Ord. No. 1568/85, § 1, 7-16-85; Ord. No. 1676/88, §§ 1, 2, 7-19-88; Ord. No. 1920/99, § 1, 7-6-99; Ord. No. 1941/01, § 1, 3-20-01; Ord. No. 3007/16, § 1, 5/24/2016)

Sec. 17-2. Possession and consumption of alcoholic beverages in public places.

Sec. 17-2A. Prohibition against consumption of alcoholic beverages by minors on private property.

(a) *Legislative intent.* It is the purpose of this section to protect the public interest, welfare, health and safety within the city by prohibiting the service to and consumption of alcoholic beverages and drugs by persons under the age of twenty-one (21) at private residences located in the city. The city council finds that the occurrence of social gatherings at private residences where alcoholic beverages or drugs are served to or consumed by persons under the age of twenty-one (21) is harmful to such persons themselves and a threat to public welfare, health and safety. The city council finds further that persons under the age of twenty-one (21) often obtain alcoholic beverages or drugs at such gatherings and that persons who are in control of such residences know or have reason to know of such service and/or consumption and will be more likely to ensure that alcoholic beverages and drugs are neither served to nor consumed by persons under the age of twenty-one (21) at these gatherings.

(b) *Definitions.* For the purpose of this section, the following terms shall be defined as follows:

Alcoholic beverage means any liquor, wine, beer, spirits, cider or other liquid or solid, patented or not, composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person; except that confectionary containing alcohol as provided in subsection 12 of 200 Agriculture and Markets Law shall not be considered alcoholic beverage within the meaning of this section.

Control means the authority and ability to regulate, direct or dominate.

Drug means and includes any substance listed in section 3306 of the Public Health Law including Marijuana as defined in Public Health Law §§ 3302(21) and 3306(d)(13). This designation of Marijuana as a drug shall remain in full force and effect, regardless of whether Marijuana is removed as a scheduled drug, rescheduled, exempted or otherwise made an exception under Public Health Law .

Minor means any person under the age of twenty-one (21).

Open house party means a social gathering at a residence or other private property with minors present.

Person means a human being and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

Residence means any home, apartment, condominium, co-operative unit or other dwelling unit of any kind, including yards and open areas adjacent thereto.

(c) *Prohibition.* No person having control of any residence shall allow an open house party to take place at said residence if such person knows or has reason to know that any alcoholic beverage or drug is being unlawfully possessed, served to or consumed by a minor at said residence.

(d) *Exceptions.* The provisions of this section shall not apply to:

(1) The possession or consumption of an alcoholic beverage by persons lawfully permitted to do so pursuant to section 65-c of the New York State Alcohol Beverage Control Law, or any other applicable law; or

(2) The possession or consumption of a drug for which the individual has a current, valid prescription or as otherwise permitted by any other applicable law.

(e) *Inconsistency with other laws.*

(1) If any part or provision of this section is inconsistent with any federal or state statute, law, rule or regulation, then such statute, law, rule or regulation shall prevail.

(2) If any part or provision of this section or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances.

(f) *Penalties.* Failure to comply with subsection (c) above shall constitute a violation, punishable by a fine which shall not exceed one thousand dollars ($1000.00), or imprisonment not exceeding fifteen (15) days or a combination of such fine and imprisonment as shall be fixed by the court.

(Ord. No. 2007/06, § 1, 8-15-06; Ord. No. 2088/14, § 1, 5/20/2014; Ord. No. 3048/21, 4/20/2021)

Sec. 17-3. Using vehicles for the purposes of a dwelling or for changing clothes.

(a) It shall be unlawful for any person to use a trailer, motor vehicle, camper, conveyance of any nature or description whatsoever, or any part or portion thereof, on any of the streets in the city or upon private property, for human habitation.

(b) No person shall use any conveyance of any nature or description whatsoever on any of the streets in the city for the purpose of undressing or dressing, either before going to the beach or after leaving the beach.

(c) Any person violating this section shall be liable to a fine of not more than two hundred fifty dollars ($250.00) for each offense, or imprisonment of not more than fifteen (15) days, or both such fine and imprisonment.

(Code 1957, § 6-210; Ord. No. 940, § 1, 10-7-69; Ord. No. 1133/72, § 1, 7-11-72)

Sec. 17-4. Reserved

Editor's note: Section 17-4 pertaining to premises where justifiable acts of abortion may be performed was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Code 1957, §§ 7-901--7-903; Ord. No. 1045/71, § 1, 5-4-71; Ord. No. 1133/72, §§ 1, 3, 7-11-72.

Sec. 17-5. Injuring shade trees, flowers and plants.

No person shall in any way injure or destroy any shade tree, plant or flower planted along the streets, malls or sidewalks of the city. Any person violating this section shall be subject to a penalty of up to ten thousand dollars ($10,000.00) for each such offense, or imprisonment for not more than five (5) days, or both such fine and imprisonment.

The building department commissioner shall promulgate rules, regulations and fees authorizing tree and/or shrub removal only after the property owner has secured a permit from the building department. Application shall be made to the building department commissioner and appealable only to the city manager.

(Code 1957, § 6-205; Ord. No. 1947/01, § 1, 8-8-01)

Sec. 17-6. Reserved

Editor's note: Section 17-6 pertaining to use of profane or obscene language was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Code 1957, § 6-202.

Sec. 17-7. Reserved

Editor's note: Section 17-7 pertaining to use of DDT and similar chemicals was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Code 1957, § 7-108(d); Ord. No. 962/70, § 1, 4-7-70.

Sec. 17-8. Reserved

Editor's note: Section 17-8 pertaining to unlawful practices involving sales of real estate was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Code 1957, § 9-101.2; Ord. No. 1076/71, § 1, 9-14-71.

Sec. 17-9. Reserved

Editor's note: Section 17-9 pertaining to cleaning or washing conveyances on or in areas adjoining streets was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Ord. No. 1228/74, § 1, 7-2-74.

Sec. 17-10. Reserved.

Editor's note: Section 17-9 pertaining to cleaning or hanging articles on or in area adjoining streets was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Ord. No. 1232/74, § 1, 7-16-74.

Sec. 17-11. Gasoline service stations to furnish free use of air-compressor hoses for inflating automobile tires.

(a) The owner and/or operator of every gasoline service station shall provide an air compressor capable of inflating automobile tires, at no charge to the user thereof. The air compressor and hoses necessary for the inflation of tires shall be kept in

good repair and shall be available to motorists at all times the gasoline service station is open for business.

(b) Any person who violates any provision of this section shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than two hundred fifty dollars ($250.00), or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment.

(Ord. No. 1579/86, § 1, 2-4-86)

Sec. 17-12. Intentional Release of Balloons.

(a) *Legislative intent*. It is the purpose of this section to protect the environment and particularly the marine and wildlife of the City of Long Beach by prohibiting the intentional release of helium or lighter-than-air balloons into the atmosphere above the City of Long Beach, including latex and Mylar.

(b) *Prohibited Releases*. It shall be unlawful for any person, nonprofit organization,firm or corporation to intentionally release or organize the release of balloons (any amount) inflated with helium or a gas that is lighter-than-air within the City of Long Beach.

(c) *Allowable Releases*. Balloons released on behalf of a governmental agency or pursuant to a government contract for scientific or meteorological purposes

(d) *Violations and Penalties*. Any person found in violation of this Section shall be fined an amount not to exceed the sum of two hundred fifty dollars ($250)..

(Ord. No. 3029/19, § 1, 4-16-2019)

Chapter 18 PARKS AND RECREATION*

***Charter references:** Authority of the council to establish and administer parks, § 97.

Art. I. In General, §§ 18-1--18-12
Art. II. Ocean Beach Park, §§ 18-13--18-56
Div. 1. Generally, §§ 18-13--18-28
Div. 2. Use, §§ 18-29--18-56
Art. III. Recreation Commission, §§ 18-57--18-73
Art. IV. Park Commission, §§ 18-74--18-79
Art. V. James J. Mccabe Jr., Memorial Park, §§ 18-80--18-87
Div. 1. Generally, §§ 18-80--18-84
Div. 2. Use, §§ 18-85--18-87
Art. VI. Rules and Regulations for Park and Recreational Areas, §§ 18-88--18-104

ARTICLE I. IN GENERAL

Sec. 18-1. Swimming in waters adjacent to the city prohibited; exception.

No person shall bathe, wade or swim in any waters adjacent to the city except in those waters adjacent to the Ocean Beach Park, at such times and in such places as the same is permitted therein.

(Code 1957, § 6-220; Ord. No. 232-V, § 3, 7-5-60)

Secs. 18-2--18-12. Reserved.

ARTICLE II. OCEAN BEACH PARK*

***Charter references:** Beach park, § 98.

DIVISION 1. GENERALLY

Sec. 18-13. Established.

The land, and improvements thereon, owned by the city, bounded as follows:

On the north by the northerly line of the Boardwalk as now, or hereafter, constructed and along an imaginary line being an extension thereof east and west to the easterly and westerly boundaries of the city; on the east and west by the easterly and westerly boundaries of the city; and on the south by the high waterline of the Atlantic Ocean; together with the property leased by the city for use as part of the Ocean Beach Park; and any land adjacent to the Ocean Beach Park owned by the city and duly designated as part of the Ocean Beach Park, are pursuant to authority granted by the charter of the city and Local Law No. 4,

of 1936, are hereby created a public park to be known as the "Ocean Beach Park of the City of Long Beach."

(Code 1957, § 6-101)

Sec. 18-14. Leases and concessions.

The city council shall make leases or grant licenses at a reasonable consideration and for periods of not to exceed five (5) years of any land, building, other property or concession in the park area. No lease or license shall be granted except after open competitive bidding duly advertised, except as provided for in Chapter 14, Article XVII.

(Code 1957, § 6-102; Ord. No. 1896/98, § 1, 5-19-98)

Sec. 18-15. Conducting businesses under the Boardwalk.

No permits, licenses or leases shall be granted for the conduct of any business for the sale of merchandise or food or any other commercial enterprise under the Boardwalk in the park without prior consent and approval of the city council.

(Code 1957, § 6-103)

Sec. 18-16. Supervision.

The Ocean Beach Park, together with the facilities and employees engaged in the operation of the park, shall be under the supervision of the city council, pursuant to the provisions of the city charter. The city council may create the office of manager of the park and such subordinate positions as may in its opinion be necessary to properly operate the facilities of such park, and provide for the salaries of such office or positions.

(Code 1957, § 6-104)

Sec. 18-17. Entrances.

(a) No person shall be permitted to enter upon the Ocean Beach Park except through regular entrances provided by the city.

(b) The provisions of subsection (a) shall not apply to hotels, apartment houses, apartment hotels and bathhouses adjacent to the park which may, upon application and the payment of charges provided in this section, have separate entrances which shall be supervised and maintained by the city and through which persons residing in such hotels, apartment houses and apartment hotels or persons using the facilities of such bathhouses may enter upon the park on the payment of the admittance charges as prescribed by this article. However, no separate entrance shall be permitted unless the owner or lessee of such hotel, apartment house, apartment hotel or bathhouse shall on or before the first day of July in each year pay to the city a sum of money equal to the number of days in each such year the park will remain in operation, and admission will be charged, multiplied by one hundred twenty-five (125%) percent of the daily rate of pay of the gate tenders as fixed by the city council.

(Code 1957, § 6-107; Ord. No. 1318/76, §§ 1, 2, 5-27-76; Ord. No. 1339/77, § 1, 6-21-

77; Ord. No. 1555/84, § 9, 10-16-84; Ord. No. 1720/90, § 1, 5-1-90; Ord. No. 2038/09, § 1, 5-5-2009; Ord. No. 2090/14, § 1 ,6/17/2014)

Sec. 18-18. Permits required for vending or commercial photography.

No person shall, without a permit therefor, do any of the following things within the Ocean Beach Park: Sell or offer for sale, hire, lease or let out any object or merchandise or any other thing, whether corporeal or incorporeal, for advertising or publicity purposes, take moving pictures or photographs within the limits of the park, or buy or sell or publish the negatives thereof or the prints therefrom, or exhibit such negatives or prints in public, or use pictures or photographs.

(Code 1957, § 6-118)

Sec. 18-19. Food and beverage sales and service.

(a) Any restaurant, luncheonette or stand situated adjacent to the north boundary of the Ocean Beach Park may be permitted to have an opening facing the park upon the payment of the charges provided in this section. The opening shall be used exclusively for the sale of food and/or nonalcoholic beverages to persons using the park, and shall not at any time be used for entrance to or exit from the park or the waters adjacent thereto. The charge for such an opening shall be one hundred fifty dollars ($150.00) per season, payable on or before the first day of July in each year. No person, firm or corporation shall place or cause to be placed any table or chair anywhere on the boardwalk, other than the benches placed thereon by the city, and anyone violating this prohibition shall be subject to the penalties provided for in this article.

(b) Whenever soft drinks are served at stands in the Ocean Beach Park, the vendor shall furnish paper cups and may not permit bottled soft drinks to be carried away from his stand.

(c) Any establishment dispensing food or beverages in the Ocean Beach Park or abutting upon the park or the Boardwalk shall be required to post a notice clearly indicating the price of merchandise sold therein, in a conspicuous place clearly legible and visible to customers making purchases.

(Code 1957, §§ 6-108, 6-108.1; Ord. No. 1484/82, § 1, 8-17-82; Ord. No. 1555/84, § 10, 10-16-84; Ord. No. 1564/85, § 1, 4-16-85)

Note: See the editor's note to § 21.

Sec. 18-20. Closure of commercial openings to park for violations.

The violation of any provision of section 18-17 or 18-19 shall be sufficient cause for the summary closing of any such entrance or opening to or upon the Ocean Beach Park.

(Code 1957, § 6-109)

Sec. 18-21. Reserved.

Editor's note: Section 1 of Ord. No. 1779/92, adopted May 5, 1992, purported to

repeal § 18-19. However, the purpose of the ordinance, as stated in the title, was to address penalties for violation of this chapter. Also, the retention of § 18-21 would have brought the section into conflict with § 18-104. For these reasons, the editor has interpreted the intent of the section as being the repeal of § 18-21. Section 18-21 had been derived from Code 1957, § 6-123, and Ord. Nos. 719 and 1133/72.

Secs. 18-22--18-28. Reserved.

DIVISION 2. USE

Sec. 18-29. "Season" defined.

For the purposes of this division, the season of the Ocean Beach Park shall be considered as beginning the last Friday of June in each year and terminating on and shall include the Labor Day following, unless otherwise provided by the city council.

Sec. 18-30. Admittance fees and passes.

(A) No person shall be permitted in or upon the Ocean Beach Park or shall be permitted to wade, bathe or swim in the waters adjacent thereto unless he has paid the charges fixed by this section.

(B) The following shall be the charges or price for admission to Ocean Beach Park:

(1) *Season admission charges*: Season admission charges to the beach on Monday through Sunday of each week and on holidays and days celebrated as holidays:

(a) *Family Plan*: Resident families and their children who have not yet reached their eighteenth birthday on the first day of the season may elect to purchase season passes for such families and children at a total cost of one hundred and fifteen dollars ($115.00). Non-resident families and their children who have not reached their eighteenth birthday on the first day of the season may elect to purchase season passes for such families and children at a total cost of two hundred and thirty dollars ($230.00).

(b) *Children Ages 13-17*: Resident children between the ages of thirteen (13) and seventeen (17) may purchase an individual season pass at a cost of thirty dollars ($30.00). Non-resident children between the ages of thirteen (13) and seventeen (17) may purchase an individual season pass at a cost of sixty dollars ($60.00)

(c) *Adults Ages 18-61*: Resident adults between the ages of eighteen (18) and sixty-one (61) may purchase a season pass at a cost of eighty five dollars ($85.00). Non-resident adults between the ages of eighteen (18) and sixty-one (61) may purchase a season pass at a cost of one hundred seventy dollars ($170.00).

(d) *Resident senior citizens*: Resident senior citizens, sixty two years of age or over, may purchase a season pass at a cost of thirty

dollars ($30.00).

(e) *Non-resident senior citizens:* Non-resident senior citizens, sixty two years of age or over, may purchase a season pass at a cost of sixty dollars ($60.00).

(f) *Access Pass*: Resident and non-resident individuals with documentation of disability, as that term is defined in the Americans with Disabilities Act, may purchase a season pass at a cost of thirty dollars ($30.00).

(g) *Military Pass*: Resident and non-resident individuals possessing Government ID indicating that the holder is a current member or has been honorably discharged from a branch of the United States Armed Forces may purchase a season pass at a cost of twenty dollars ($20.00).

(2) *Daily admission charges:*

(a) *Daily admission*: Non-resident adults and children who have reached their thirteenth birthday shall be charged fifteen dollars ($15.00) per day. Resident adults and children who have reached their thirteenth birthday shall be charged twelve dollars ($12.00). Anyone who has not yet reached his/her thirteenth birthday shall be admitted free of charge.

(b) *No charge for persons under thirteen:* There shall be no admission charge for any person who shall not yet have reached his thirteenth birthday.

(c) *Economy beach pass*: Non-resident adults and children who have reached their thirteenth birthday may purchase an economy beach pass at a cost of one hundred twenty dollars ($120.00), which shall entitle the holder thereof to ten (10) admissions to the Ocean Beach Park during the season for which it is purchased. Resident adults and children who have reached their thirteenth birthday may purchase an economy beach pass at a cost of one hundred dollars ($100.00), which shall entitle the holder thereof to ten (10) admissions to the Ocean Beach Park during the season for which it is purchased..

(3) *Proof of residence and age:* All applicants for a season pass or for daily admission must produce proof of residence and of age upon request.

(4) *Loss of pass:* In the event of loss of a pass, no duplicate will be issued; a new pass will be issued only upon purchase at the full established rates.

(C) No person, firm or corporation, other than the City of Long Beach, may sell or offer for sale any pass or ticket for admission to the Ocean Beach Park, unless an entity has been authorized by the City Manager to do so.

(D) If a person draws, issues and/or delivers a bad check (as defined in section 190.05 of the Penal Code of the State of New York), to the City of Long Beach, drawn on a bank and/or financial institution, and the same is refused for payment upon presentation thereof by reason of insufficient funds and/or for any reason

whatsoever, then in such event the person and/or drawer shall pay all administrative and collection charges, fees and costs as incurred by reason thereof.

(Code 1957, §§ 6-105(2), 6-106; Ord. No. 717, § 1, 6-9-64; Ord. No. 795, § 1, 6-7-66; Ord. No. 879, § 1, 4-2-68; Ord. No. 929, § 1, 5-6-69; Ord. No. 939, § 1, 10-7-69; Ord. No. 967/70, § 2, 4-7-70; Ord. No. 983/70, § 2, 7-16-70; Ord. No. 984/70, § 2, 7-29-70; Ord. No. 1034/71, § 1, 4-6-71; Ord. No. 1055/71, § 1, 6-8-71; Ord. No. 1123/72, § 1, 6-6-72; Ord. No. 1263/74, § 1, 11-26-74; Ord. No. 1278/75, § 1, 5-29-75; Ord. No. 1279/75, § 1, 5-29-75; Ord. No. 1314/76, § 1, 5-4-76; Ord. No. 1338/77, § 1, 5-3-77; Ord. No. 1359/78, § 1, 4-4-79; Ord. No. 1393/79, § 1, 5-8-79; Ord. No. 1417/80, § 1, 5-20-80; Ord. No. 1467/82, § 1, 2-16-82; Ord. No. 1506/83, § 1, 5-17-83; Ord. No. 1534/84, 3-20-84; Ord. No. 1588/86, § 1, 3-18-86; Ord. No. 1694/89, § 1, 4-18-89; Ord. No. 1818/94, § 1, 5-17-94; Ord. No. 1929/00, § 1, 4-4-00; Ord. No. 1978/04, § 1, 4-7-04; Ord. No. 2000/05, § 1, 5-3-05; Ord. No. 2006/05, § 1, 12-20-05; Ord. No. 2017/07, § 1, 5-1-07; Ord. No. 2050/10, § 1, 5-4-2010; Ord. No. 2053/10, § 1, 6-15-2010; Ord. No. 2054/10, § 1, 6-15-2010); Ord. No. 2067/12, § 1, 5-1-2012; Ord. No. 3003/16, § 1, 6-9-2016; Ord. No. 3050/21, 5-4-2021; Ord. No. 3059/22, 5-3-2022; Ord. No. 3063/22, 6-21-2022)

Sec. 18-31. Production of passes and tickets for inspection.

Any person who shall be in or upon the Ocean Beach Park or in the waters adjacent thereto at any time during the season, as hereinbefore defined, shall, upon the request or demand of any police officer, special police officer or other peace officer, produce for inspection his season pass or daily admission ticket. Refusal, inability or failure to comply with such request or demand shall be presumptive evidence of such person's illegal entry and presence in or upon the Ocean Beach Park or in the waters adjacent thereto, and shall constitute a violation of this section.

(Ord. No. 1398/79, § 2, 7-3-79)

Sec. 18-32. Hours of operation.

No person or persons shall be permitted in or upon the Ocean Beach Park for any purpose between the hours of 11:00 p.m. and 5:00 a.m., except employees engaged in the operation of the park. This prohibition shall not apply to the boardwalk, but shall apply to the beach under the boardwalk.

(Code 1957, § 6-105(3); Ord. No. 232-V, § 1, 7-5-60; Ord. No. 967/70, § 1, 4-7-70; Ord. No. 983/70, § 1, 7-16-70; Ord. No. 984/70, § 1, 7-29-70; Ord. No. 1418/80, § 1, 5-20-80)

Sec. 18-33. Disrobing.

No person shall dress or undress in the Ocean Beach Park.

(Code 1957, § 6-110)

Sec. 18-34. When bathing permitted.

No person shall bathe, wade or swim in any waters adjacent to the Ocean Beach Park except between the hours of 9:00 a.m. and 6:00 p.m., during the beach park season.

(Code 1957, § 6-111; Ord. No. 232-V, § 2, 7-5-60)

Sec. 18-35. Organized picnics and outings.

No organized picnics, outings or gatherings shall be conducted in the Ocean Beach Park unless a special permit therefor is issued by the city clerk after prior written approval thereof by the city council or the city manager, upon payment to the city clerk of the following sums:

(a) A nonrefundable permit fee of ten dollars ($10.00).

(b) A deposit of fifty dollars ($50.00), refundable upon written certification of the superintendent of the Ocean Beach Park that the area involved has been left in clean, orderly and sanitary condition.

(Ord. No. 1423/80, § 1, 7-15-80)

Editor's note: Ord. No. 1423/80, § 1, adopted July 15, 1980, repealed § 18-35, relative to organized picnics and gatherings and enacted in lieu thereof a new § 18-35 relative to the same subject matter. The former section derived from Code 1957, § 6-112 and Ord. No. 1373/78, § 1, adopted July 5, 1978.

Sec. 18-36. Games.

No person shall throw, cast, catch, kick or strike any baseball, golfball, football, basketball, beanbag or other object except in places designated therefor.

(Code 1957, § 6-113)

Sec. 18-37. Water sports equipment.

Except as provided in this division, no person shall take, carry, bring or use any surfboard, float or other similar aquatic equipment into or upon any portion of the Ocean Beach Park or the waters adjacent thereto.

(Code 1957, § 6-113.1; Ord. No. 656, § 1, 7-3-62)

Sec. 18-38. Surfing.

(a) Anything in this division to the contrary notwithstanding, the use of surfboards within the Ocean Beach Park and waters adjacent thereto shall be permitted only during the hours and the season when bathing is permitted, and only in such area or areas as shall be designated by the city manager.

(b) No person shall be permitted to take, carry, bring or use any surfboard into, in or upon any portion of the Ocean Beach Park other than the area or areas so designated pursuant to subsection (a) hereof.

(c) Surfers shall be subject to all of the provisions of this division applicable to other persons using the Ocean Beach Park and the waters adjacent thereto.

(Ord. No. 1421/80, § 1, 7-1-80)

Editor's note: Ord. No. 1421, § 1, adopted July 1, 1980, repealed § 18-38, relative to surfing, and enacted in lieu thereof a new § 18-38 relative to the same subject matter.

The former section derived from Code 1957, § 6-113.2; Ord. No. 751, § 1, adopted June 1, 1965; Ord. No. 791, § 1, adopted May 3, 1966 and Ord. No. 800, § 1, adopted June 7, 1966.

Sec. 18-39. Animals; when horses are permitted in the park.

(a) No person owning or being custodian or having control of any animal shall cause or permit such animal to enter the Ocean Beach Park or the Boardwalk, and any such animal found at large may be impounded.

(b) No person shall use, ride, drive or permit a horse in or upon any portion of the Ocean Beach Park except duly licensed concessionaires who shall be permitted to use only designated portions of the Ocean Beach Park for such purposes only during the period from the first day of October in each year to the last day of April, inclusive in each succeeding year.

(Code 1957, §§ 6-114, 6-117; Ord. No. 813, § 1, 10-4-66)

Sec. 18-40. Meeting and exhibitions.

No person shall erect any structure, stand or platform, hold any meeting, perform any ceremony, make a speech, address or harangue, exhibit to the public any dramatic performance, or the performance in whole or in part of any interlude, tragedy, comedy, opera, ballet, play, farce, minstrelsy, dancing, entertainment, motion picture, circus, juggling, ropewalking, or any other acrobatics; or engage in any parade, drill, maneuver or civic or other procession in the Ocean Beach Park or on the Boardwalk, except with a permit therefor from the city clerk.

(Code 1957, § 6-115)

Sec. 18-41. Begging and soliciting funds.

No person shall solicit alms or contributions for any purpose in the Ocean Beach Park, except with a special permit therefor from the city council.

(Code 1957, § 6-116)

Sec. 18-42. Pollution of water.

No person shall, within the Ocean Beach Park, throw, cast, lay, drop or discharge into or leave in the waters any substance, matter or thing, liquid or solid, which may or shall result in the pollution of said water.

(Code 1957, § 6-119)

Sec. 18-43. Removal of sand.

No person shall remove or cause to be removed more than five (5) pounds of sand from any part of the Ocean Beach Park, except a city employee in the performance of his duties.

(Ord. No. 1450/81, § 1, 5-19-81)

Sec. 18-44. Sale, use or possession of alcoholic beverages.

(a) No person shall sell or offer for sale any intoxicating beverage or liquor of any kind in or upon any portion of the Ocean Beach Park.

(b) No person shall take, carry, bring, possess or use any alcoholic beverage or liquor of any kind into or upon any portion of the Ocean Beach Park, except in accordance with a permit for a special event issued by the city clerk and/or the Commissioner of Parks & Recreation or his/her designee pursuant to subsection 17-2(c) of this Code.

(c) Any city police officer or special officer is authorized to request any person seeking admission to the Ocean Beach Park to open for inspection any closed cooler or similar container designed to hold food and beverages, which is in the possession or control of such person. In the event that such person refuses to comply with such request for inspection, and enters said Ocean Beach Park with said cooler or container, it shall constitute a violation of this article.

(Code 1957, §§ 6-121.1, 6-121.2; Ord. No. 719, § 1, 6-9-64; Ord. No. 750, § 1, 6-1-75; Ord. No. 1424/80, § 1, 7-15-80; Ord. No. 1599/86, § 1, 6-17-86; Ord. No. 3052/21, 07-06-2021)

Sec. 18-44.1. Sale or use of cigarettes, cigars, pipe or electronic cigarette/smoking and/or inhalation devices.

(a) No person shall sell or offer for sale any cigarette, cigar, pipe or electronic cigarette/smoking and/or inhalation device which creates an aerosol or vapor, in or upon any portion of the beach or boardwalk within Ocean Beach Park.

(b) No person shall use, light and/or smoke any cigarette, cigar, pipe or electronic cigarette/smoking and/or inhalation device which creates an aerosol or vapor, into or upon any portion of the beach or boardwalk within Ocean Beach Park.

(c) Any city police officer or special officer observing a person in violation of this Section is authorized to issue a summons, pursuant to Section 18-104 of this Chapter..

(Ord. No. 3002/16, § 1, 5-3-2016)

Sec. 18-45. Rubbish and refuse matter.

(a) No person shall take into, carry through, leave in, or throw, cast, lay, drop or discharge into or on, or suffer or permit any servant, agent, employee or person in his or her charge, to take into, carry through, leave in, or throw, cast, lay, drop or discharge into or on the Ocean Beach Park any ashes, dross, cinders, shells, paper, dirt, sand, oil, grease, clay loam, stone or building rubbish, hay straw, oats, sawdust, shavings, or manufacturing, trade, or household waste, old iron or other metal or object made therefrom or rubbish of any sort, or sick, diseased or dead animals, organic refuse, or other offensive matter, including swill, brine, urine, offal, fecal matter, garbage or rubbish.

(b) No person shall throw, cast, lay or deposit any glass bottles or pieces of crockery, nor any glass or glassware or any part thereof, or metallic substance on any bathing area in, or adjoining the Ocean Beach Park.

(c) No person shall take, carry, bring, possess or use any glass bottle or any glass, crockery, porcelain or other breakable article on any portion of the beach or Boardwalk within the Ocean Beach Park.

(Code 1957, §§ 6-120, 6-122, 6-122.2; Ord. No. 850, § 1, 6-6-67; Ord. No. 1459/81, § 1, 8-18-81)

Sec. 18-46. Inline Skates, roller skates and skateboards on the boardwalk of the Ocean Beach Park.

(a) Skateboarding on the boardwalk is prohibited at all times.

(b) Inline skating and roller skating on the boardwalk is permitted in the center lane (i.e., bicycle lane) only

(c) No person shall inline skate or roller skate at a speed greater than is reasonable and prudent under the conditions, and having regard to the actual and potential hazards then existing

(Ord. No. 1628/87, § 1, 6-2-87; Ord. No. 1680/88, § 1, 9-6-88; Ord. No. 3065/22, § 1, 7/19/2022)

Sec. 18-47. Boardwalk construction.

The city will not purchase products containing in whole or in part, wood from tropical or temperate rainforests excepting those woods which are proven to have been harvested in an environmentally sound manner.

(Ord. No. 1946/01, § 1, 8-8-01)

Sec. 18-48. Beach jetties.

Legislative intent - It is the intent of the City Council in enacting this legislation to protect the public safety and welfare of people visiting and working in Ocean Beach Park. The Army Corps of Engineers began working with the City in March of 2017, creating new, larger beach jetties along the shoreline to protect our beaches from erosion. Unfortunately, people have been climbing and walking on these new jetties, putting themselves in harms' way, risking slipping and falling onto the rocks and/or into the ocean, as well as placing our first responders and lifeguards at risk. This Section is designed to regulate the use of these jetties, for the protection of people enjoying our beaches and working on our beaches.

a) For purposes of this part: "Jetties" means the man-made rock structures that run perpendicular to the shoreline of the Ocean Beach Park, also known as beach groins, designed to create beaches and prevent their erosion.

(b) No person visiting the Ocean Beach Park shall stand, walk or run upon the jetties at any time. A violation of this section shall be punishable by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment.

(c) Emergency personnel, authorized government and/or City employees, or authorized independent contractors, engaged in authorized services related to the jetties and the Ocean Beach Park, shall be exempt from violations of this Section."

Sec. 18-46. Inline Skates, roller skates and skateboards on the boardwalk of the Ocean Beach Park.

(Ord. No. 3014/17, § 1, 06-06-2017)

Secs. 18-49--18-56. Reserved.

Sec. 18-48. Beach jetties.

ARTICLE III. RECREATION COMMISSION

Sec. 18-57. Created; composition; compensation of members.

There shall be a recreation commission consisting of seven (7) members appointed by the city manager, who shall serve without compensation.

(Code 1957, § 2-507.1; Ord. No. 696, § 1, 1-7-64; Ord. No. 1419, § 1, 5-20-80)

Sec. 18-58. Terms of members.

The term of office for each of the members of the recreation commission shall be as follows: Of the members first appointed, three (3) shall be appointed for a term of one (1) year and two (2) shall be appointed for a term of two (2) years; thereafter, all appointments shall be for terms of two (2) years each.

(Code 1957, § 2-507.2; Ord. No. 696, § 1, 1-7-64)

Sec. 18-59. Ex officio members.

The chairman of recreation of the board of education of the Long Beach City School District and the city manager, who is the person in charge of recreation areas for the city, shall be ex officio members of the recreation commission.

(Code 1957, § 2-507.3; Ord. No. 696, § 1, 1-7-64)

Sec. 18-60. Designation of chairman.

The recreation commission shall have the power to select its own chairman.

(Code 1957, § 2-507.5; Ord. No. 696, § 1, 1-7-64)

Sec. 18-61. Executive secretary.

(a) The city manager shall appoint an executive secretary to the recreation commission, who shall be compensated at the rate of one thousand dollars ($1,000.00) per year.

(b) It shall be the duty of the executive secretary to the recreation commission to keep and maintain all records and files of the recreation commission business, prepare agendas of meetings of the recreation commission, process all correspondence of the recreation commission, and perform such other functions and duties as may be prescribed by the chairman.

(Code 1957, §§ 2-507.6, 2-507.7; Ord. No. 810, § 1, 9-13-66)

Sec. 18-62. Duties and functions.

It shall be the duty of the recreation commission to:

(a) Meet at stated intervals and to meet whenever the city manager shall, in writing, request it to do so.

(b) Promote the public interest in general, educational, social, indoor and outdoor activities for the welfare of the youth of the city.

(c) Investigate, inquire into and report to the city council on all matters pertaining to recreation which may be referred to it for investigation and report by the city manager or the city council.

(d) Periodically report to the city council on the maintenance, equipment and operation of the recreation facilities of the city and to make recommendations with respect thereto.

(Code 1957, § 2-507.4; Ord. No. 696, § 1, 1-7-64)

Secs. 18-63--18-73. Reserved.

ARTICLE IV. PARK COMMISSION

Sec. 18-74. Created; composition; appointment of members.

There shall be a park commission consisting of three (3) members, who shall be appointed by the city manager.

(Code 1957, § 2-509.1; Ord. No. 699, § 1, 2-4-64; Ord. No. 766, § 1, 11-10-65)

Sec. 18-75. Terms of office of members.

The term of office for each of the members of the park commission shall be as follows: Of the members first appointed, one (1) shall be appointed for a term of one (1) year and two (2) shall be appointed for a term of two (2) years; thereafter, all appointments shall be for a term of two (2) years each.

(Code 1957, § 2-509.2; Ord. No. 699, § 1, 2-4-64)

Sec. 18-76. Appointment and compensation of park commissioner.

The city manager shall appoint the chairman of the park commission, whose title shall be park commissioner, and who shall be paid such salary as the city council shall determine.

(Code 1957, § 2-509.4; Ord. No. 699, § 1, 2-4-64; Ord. No. 766, § 1, 11-10-65)

Sec. 18-77. Duties and functions.

It shall be the duty of the park commission to:

(a) Meet at stated intervals and to meet whenever the city manager shall in writing request it to do so;

(b) Investigate, inquire into, and report at least three (3) times a year to the city council on all facts and circumstances concerning the physical development of the parks, malls and other vacant public areas of the city;

(c) Investigate, inquire into and report to the city council on any necessary

and desirable changes in the physical condition of the parks, malls and other vacant public areas of the city and submit recommendations thereon;

(d) Investigate, inquire into and report to the city manager or the city council on all matters which may be referred to it by the city manager or the city council;

(e) Submit annually to the city manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommended improvements to the malls, parks and other public vacant areas which, in the opinion of the park commission, are necessary or desirable to be made, together with an estimate of the cost thereof.

(Code 1957, § 2-509.3; Ord. No. 699, § 1, 2-4-64)

Secs. 18-78, 18-79. Reserved.

ARTICLE V. JAMES J. McCABE JR., MEMORIAL PARK

DIVISION 1. GENERALLY

Sec. 18-80. Established.

The land and the improvements thereon owned by the city situated on the westerly side of Monroe Boulevard to the Long Beach Bridge abutment and extending from the northerly side of State Street to Reynolds Channel are, pursuant to authority granted by the charter of the City of Long Beach, hereby created a public park to be known as the "James J. McCabe Jr., Memorial Park."

(Ord. No. 1426/80, § 1, 7-15-80)

Sec. 18-81. Supervision.

The James J. McCabe Jr., Memorial Park, together with the facilities and employees engaged in the operation of the park, shall be under the supervision of the city council, pursuant to the provisions of the city charter, the city manager and the superintendent of recreation. The city council may create such positions as may in its opinion be necessary to properly operate the facilities of such park and provide for the salaries of such employees.

(Ord. No. 1426/80, § 1, 7-15-80)

Sec. 18-82. Entrances.

No person shall enter the James J. McCabe Jr., Memorial Park except through the regular entrance or entrances provided for that purpose by the city or its duly designated employees.

(Ord. No. 1426/80, § 1, 7-15-80)

Sec. 18-83. Sale, use or possession of alcoholic beverages.

No person shall take, carry, bring, use, sell or offer for sale any intoxicating beverage or liquor of any kind into or upon any portion of the James J. McCabe Jr., Memorial Park.

(Ord. No. 1426/80, § 1, 7-15-80; Ord. No. 1440/80, § 1, 12-2-80)

Sec. 18-84. Sale or use of cigarettes, cigars, pipes or electronic cigarette/smoking and/or inhalation devices.

No person shall use, light and/or smoke, sell or offer for sale any cigarette, cigar, pipe or electronic cigarette/smoking device which creates an aerosol or vapor, in or upon any portion of the James J. McCabe Jr., Memorial Park..

(Ord. No. 3002/16, § 1, 05/03/2016)

Sec. 18-85. Reserved.

Editor's note: Section 18-84, providing a penalty for the violation of this article, derived from Ord. No. 1426/80, § 1, adopted July 15, 1980, was repealed by § 2 of Ord. No. 1779/92, adopted May 5, 1992. See § 18-104.

DIVISION 2. USE

Sec. 18-85. "Season" defined.

For the purposes of this division, the season of the James J. McCabe Jr., Memorial Park shall be considered as beginning the first Saturday of April in each year and terminating at the end of the last Sunday in October following, unless otherwise provided by the city council.

(Ord. No. 1426/80, § 1, 7-15-80; Ord. No. 1440/80, § 1, 12-2-80)

Sec. 18-86. Hours of operation.

(a) The James J. McCabe Jr., Memorial Park shall be operated only during the said season and only during the following times, unless otherwise provided by the city council:

(1) From the first Saturday of April to the Friday before Memorial Day, only on Saturdays and Sundays from 9:00 a.m. to 5:00 p.m.

(2) From the Saturday before Memorial Day to the last Sunday of September, Monday to Friday, inclusive, in each week, from 9:00 a.m. to 10:00 p.m.; and Saturdays and Sundays, in each week, from 8:00 a.m. to 10:00 p.m.

(3) From the first Saturday of October to the last Sunday of October, only on Saturdays and Sundays, from 9:00 a.m. to 4:00 p.m.

(b) No person or persons shall enter into or upon the grounds of the James J. McCabe Jr., Memorial Park at any time other than during the foregoing hours of operation for any purpose, except employees engaged in the operation or

maintenance of the park.

(Ord. No. 1426/80, § 1, 7-15-80; Ord. No. 1440/80, § 1, 12-2-80)

Sec. 18-87. Tennis fees and charges; rules and regulations.

(a) Each person using the tennis courts shall pay the following hourly fees or charges:

Residents of the city:

Singles play . . . $ 1.50

Doubles play . . . 1.00

Nonresidents of the city:

Singles play . . . 2.00

Doubles play . . . 1.50

(b) Tennis clinics and tournaments may be arranged and scheduled by the city manager and the superintendent of recreation and the fees, charges and other requirements therefor shall be fixed by them in their best judgment and discretion.

(c) The city manager and the superintendent of recreation shall make and publish such other rules and regulations concerning the use of the tennis courts and other facilities of the James J. McCabe Jr., Memorial Park as they shall deem proper and advisable to assure maximum use and enjoyment of all facilities, in their best judgment and discretion.

(Ord. No. 1426/80, § 1, 7-15-80)

ARTICLE VI. RULES AND REGULATIONS FOR PARK AND RECREATIONAL AREAS

Sec. 18-88. Purpose, applicability, definitions.

(a) *Purpose.* The purpose of this article is to provide rules and regulations for the use of and conduct in the parks and recreation areas of the city.

(b) *Applicability.* This article shall apply to the parks and recreation areas listed hereunder, which are under the jurisdiction of the city. For the issuance of permits, temporary designations, authorizations, granting of approval and other actions the approving governing agency shall be the city clerk. This article applies to the following parks:

(1) Kennedy Plaza;

(2) Clark Street Playground near Reynolds Channel;

(3) Municipal Fishing Pier;

(4) George B. Costigan Recreation Fields;

(5) Pacific Boulevard/Shore Road Playground;

(6) North Park Place/East Pine Street Playground;

(7) Magnolia Boulevard/West Broadway Playground;

(8) Georgia Avenue/West Beech Street Playground;

(9) Long Beach Roller Hockey Rink;

(10) Municipal Indoor Swimming Pool at Magnolia Boulevard and Water Street.

(11) Long Beach Ice Arena;

(12) The Martin Luther King Jr Center.

The locations of said parks are described hereunder in section 18-100.

(c) *Construction.* In the interpretation of this and all other park and recreation area laws, the provisions shall be construed as follows:

(1) Any term in the singular shall include the plural.

(2) Any term in the masculine shall include the feminine and neuter.

(3) Any requirement or prohibition of any act shall respectively extend to and include the causing and procuring, directly or indirectly, of such act.

(4) No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the city in line of duty or work as such, or by any person, his agent or employees, in the proper and necessary execution of the terms of any agreement with the city.

(d) *Definitions.*

Animals. Includes cats, dogs, horses, any fowl or birds and any living creatures within the jurisdiction of the park or recreation area.

Approving governing agency. Means city clerk and/or the Commissioner of Parks & Recreation or his/her designee.

Crossing. Any crossing whether marked by a pavement or otherwise; the extension to any sidewalk space across any intersection drive, street, highway.

Curb. Any boundary of any street, road, avenue, boulevard, or drive, whether or not marked by a curb.

Park's attendant. Any person employed by the City of Long Beach as a parks attendant to perform duties or tasks within the park and recreation areas.

Path. Any footpath, walk, or any path maintained for pedestrians.

Pedestrian. Means a person afoot.

Permit. Any written license issued by or under the authority of the approving governing agency permitting a special event or activity on park facilities.

Person. Any natural person, corporation, company, association, joint stock association, firm or co-partnership.

Soliciting. Persons selling goods or services by sample or taking orders for future delivery with or without accepting advance payment for the goods. Persons seeking any

form of contributions.

Stopping or standing. When prohibited means any cessation of movement of a vehicle occupied or not, except when necessary to avoid conflict with pedestrians or other traffic including horses and bicycles.

Traffic. Means pedestrians, ridden or herded animals and vehicles, either singly or together.

Vehicle. Any conveyance (except baby carriages) including motor vehicles, trailers of all types, campers, tricycles, bicycles, motorized or not, sleds, sleighs, pushcarts, or vehicles propelled by other than muscular power. Also any horse or horse-drawn conveyance.

Vending. Selling or trading any item or service.

(Ord. No. 1740/91, § 1, 1-15-91; Ord. No. 3052/21, 07-06-2021)

Sec. 18-89. Structures, plants, trees, earth, rubbish.

It shall be unlawful for any person in a public park or recreation area to:

(1) Mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, pavings or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(2) Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six (6) years shall use the restrooms and washrooms designated for the opposite sex.

(3) Dig or remove any soil, rock, sand, stones, trees, shrubs or plants or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(4) Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder.

(5) Damage, cut, carve, mark, transplant or remove any plant, or injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas, or in any other way injure the natural beauty or usefulness of any area.

(6) Climb any tree; climb, stand or sit upon monuments, vases, planters, fountains, railings, fences or upon any other property not designated or customarily used for such purpose.

(7) Attach any rope or cable or other contrivance to any tree, fence, railing, bridge, bench, or other structure.

(8) Throw, discharge, or otherwise place or cause to be placed in the waters

of any fountains, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or refrain flowing into such water, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

(9) Take into, carry through, or put into any park, any rubbish, refuse, garbage or other material. Such refuse and rubbish shall be deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(10) Bring any glass container into any park or recreation area.

(11) Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, wildlife, reptile or bird; nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird. Exception to the foregoing is made in that snakes known to be deadly poisonous may be killed on sight.

(12) Cause, permit, or allow an animal, which is either owned, harbored or in the charge or control of a person, to enter in or upon any city-owned mall, park, playground, square, plaza, recreation area or grass plot unless such area has been designated by the City Manager as a permitted or allowable dog area.

(Ord. No. 1740/91, § 1, 1-15-91; Ord. No. 1780/92, § 1, 5-5-92; Ord. No. 2060/11, § 1, 7/7/2011)

Sec. 18-90. Vehicles.

It shall be unlawful for any person in a public park or recreation area to:

(1) Drive any vehicle on any area except the paved park roads or parking areas, or such areas as may on occasion be specifically designated as temporary areas.

(2) Park a vehicle anywhere except on a designated parking area.

(3) Leave a vehicle standing or parked in established parking areas or elsewhere in the park and recreation areas during hours when the park and recreation area is closed. During a snow storm and for three (3) days thereafter established parking areas in parks and recreation areas may be utilized for parking, but not by trailers of any kind.

(4) Leave a bicycle in a place other than a bicycle rack.

(5) Ride a bicycle without reasonable regard to the safety of others.

(6) Wash any vehicle.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-91. Firearms, weapons, tools.

It shall be unlawful for any person to bring into or have in his possession in any park or recreation area:

(1) Any pistol or revolver or objects upon which loaded or blank cartridges may be used. Official starters, at authorized track and field events, are excepted from this restriction.

(2) Any burglar tools.

(3) Any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow, or other weapon in which the propelling force is gunpowder, a spring or air.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-92. Explosives and fireworks.

It shall be unlawful for any person to have in his possession or set off any fireworks.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-93. Advertising, assemblages, entertainment.

(a) No person shall post, paint, affix, distribute, deliver, place, cast or leave about, any bill, billboard, placard, ticket, handbill, circular, or advertisement.

(b) No person shall play live or recorded music or speech through a loudspeaker, except as authorized by permit. Personal portable music players may be used with headphones without permit.

(c) No person shall do any of the following without a permit, provided that no permit shall be required for any action or event sponsored by the city.

(1) Conduct religious or charitable functions or activities.

(2) Hold public assemblages.

(3) Conduct exhibitions.

(4) Hold a parade.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-94. Merchandise; sale prohibited.

No person shall expose or offer for sale any article in any park or recreation area without a license as a concessionaire.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-95. Ignitable and combustible materials.

No person shall kindle, build, maintain or use a fire except in places provided for such purposes. Any fire shall be continuously under the care and direction of a competent person from the time it is kindled until it is extinguished. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, boat or vehicle, or under any tree or in underbrush.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-96. Alcoholic beverages, controlled dangerous substances, alms, gambling, cigarettes, cigars, pipes or electronic cigarette/smoking and/or inhalation devices.

While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly manner, and in particular, no person shall:

(1) Bring alcoholic beverages, or controlled dangerous substances, drink or use the same at any time, nor shall any person be under the influence of intoxicating liquor or a controlled dangerous substance in a park or recreation area.

(2) Solicit alms or contributions for any purpose, whether public or private.

(3) Play any game of chance or have possession of any instrument or device for gambling.

(4) Play, engage or take part in any game or competitive sport for money, or other valuable thing, without a written permit.

(5) Use, light and/or smoke, sell or offer for sale any cigarette, cigar, pipe or electronic cigarette/smoking and/or inhalation device which creates an aerosol or vapor, in any park or recreation area.

(Ord. No. 1740/91, § 1, 1-15-91; Ord. No. 3002/16, § 1, 05/03/2016)

Sec. 18-97. Miscellaneous conduct.

It shall be unlawful for any group, organization or person in a park or recreation area to:

(1) Camp or stay overnight anywhere.

(2) Take part in the playing of any games involving thrown or otherwise propelled objects except in those areas designated for such forms of recreation.

(3) Play football, baseball, basketball, soccer or lacrosse, except in areas designated for such games.

(4) Rollerskate or use skateboards except in those areas specifically designed for such pastimes.

(5) Enter an area posted as "closed to the public."

(6) Engage in threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to breach the public peace.

(7) Fail to produce and exhibit any permit he claims to have, upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any provision of this article.

(8) Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit.

Sec. 18-96. Alcoholic beverages, controlled dangerous substances, alms, gambling, cigarettes, cigars, pipes or electronic cigarette/smoking and/or inhalation devices.

(9) Erect or occupy any tent, stand or other structure in any park or playground, or sell or give away any food, drink or other thing, without a permit.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-98. Picnic areas.

It shall be unlawful for any person or group of persons to hold a picnic in any park without a permit.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-99. Swimming pools.

The laws relating to the use of public swimming pools shall govern the use of any swimming pool in any park.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-100. Closing hours.

Except for designated camping areas, no person shall be in any park during the hours the park is closed.

The following parks are closed from 11:00 p.m. to 6:00 a.m., or as posted:

(1) Kennedy Plaza. Bordered by West Park Avenue, National Boulevard, West Chester Street and Centre Street.

(2) Clark Street Playground. Clark Street near Reynolds Channel.

(3) Municipal Fishing Pier. At the foot of Magnolia Boulevard, and Reynolds Channel.

(4) George B. Costigan Recreation Fields. Between Magnolia and National Boulevards, Water Street to West Pine Street.

(5) Playground at Pacific Boulevard/Shore Road.

(6) Playground at North Park Place/East Pine Street.

(7) Playground at Magnolia Boulevard/West Broadway.

(8) Playground at Georgia Avenue/West Beech Street.

(9) Long Beach Roller Hockey Rink. Between Reynolds Channel and George B. Costigan Recreation Fields.

Closing hours will be posted at all parks.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-101. Regulated activities.

The following activities are permitted only at times and in areas so designated for that purpose and are prohibited, elsewhere within the parks:

(1) Swimming, bathing, wading, fishing.

(2) Iceskating, sledding, skiing.

(3) Model airplane flying.

(4) Boating on ponds - without motors.

(5) Baseball.

(6) Police pistol range.

(7) Archery.

(8) Horseshoe pitching.

(9) Tennis.

(10) Camping.

(11) Football and track.

(12) Basketball.

(13) Soccer.

(14) Bicycle riding.

(15) Throwing or propelling any objects.

(16) Roller skating.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-102. Permits.

Permits shall be obtained by application to the city clerk and/or the Commissioner of Parks & Recreation or his/her designee in accordance with the following procedure.

(a) A person seeking issuance of a permit hereunder shall file an application stating:

(1) The name and address of the applicant.

(2) The name and address of the person, persons, corporation or association sponsoring the activity; if any.

(3) The day and hours for which the permit is desired.

(4) The park or portion thereof for which the permit is desired.

(5) Any other information reasonably necessary to a determination as to whether a permit should be issued hereunder.

(6) Variances required from park rules and regulations.

(b) Standards for issuance of a use permit shall include the following findings:

(1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park.

(2) That the proposed activity and use will not unreasonably interfere with or

detract from the promotion of public health, welfare, safety and recreation.

(3) That the proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.

(4) That the proposed activity will not entail extraordinary or burdensome expense or police operation by the city.

(5) That the facilities desired have not been reserved for other use on the date and hour requested in the application.

(6) That no person or group shall receive more than two (2) permits per month. The maximum duration of activities permitted by permit is ten (10) consecutive hours.

(c) A permittee shall be bound by all park rules and regulations and all applicable ordinances as fully as though the same were inserted in said permits.

(d) An applicant for a permit may be required to submit evidence of liability insurance covering injuries to members of the general public arising out of such permitted activities in such amounts as may be from time to time determined prior to the commencement of any activity or issuance of any permit.

(e) Revocation. The city clerk and/or the Commissioner of Parks & Recreation or his/her designee shall have the authority to revoke a permit upon a finding of violation of any provision of this article or upon good cause shown.

(Ord. No. 1740/91, § 1, 1-15-91; Ord. No. 3052/21, 07-06-2021)

Sec. 18-103. Enforcement.

(a) The city police department shall, in connection with their duties imposed by law, diligently enforce the provisions of this article.

(b) The city police department shall have the authority to order any person or persons acting in violation of any provision of this article to leave the park or recreation area.

(Ord. No. 1740/91, § 1, 1-15-91)

Sec. 18-104. Penalty.

Any person, firm or corporation violating any provisions of this chapter 18 shall be punished by a mandatory minimum fine of fifty dollars ($50.00) and a maximum fine of five hundred dollars ($500.00), or by imprisonment not to exceed fifteen (15) days, or by sentencing to an educational course, or by any combination thereof, for each violation of this chapter 18. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. No. 1740/91, § 1, 1-15-91; Ord. No. 1779/92, § 3, 5-5-92; Ord. No. 1941/01, § 1, 3-20-01)

Chapter 19 PERSONNEL CODE*

***Charter references:** Opinions not to affect appointments, § 14; oath of office, § 16; failure of city employees to pay legal indebtedness, § 17; code of ethics, § 18; police, § 44 et seq.; civil service commission, § 95; firemen, § 160 et seq.

Art. I. In General, §§ 19-1--19-17
Art. II. Vacations, Sick Leaves and Similar Benefits, §§ 19-18--19-33
Div. 1. Generally, §§ 19-18--19-28
Div. 2. Reserved, §§ 19-29--19-33

ARTICLE I. IN GENERAL

Sec. 19-1. Duties of the civil service commission generally.

(a) The civil service commission shall, in the manner defined by the Civil Service Law and subject to and in pursuance of the provisions of such law and of all amendments that may from time to time be made to it, prescribe, amend and enforce rules for the classification of the officers, places and employment in the public service of the city, and for the appointments and promotions therein, and examinations therefor, and for the restriction and selection of laborers or employment therein.

(b) The civil service commission of the city shall keep a register of laborers for employment in the city, in accordance with the Civil Service Law.

(Code 1957, §§ 2-504.1--2-504.3)

Sec. 19-2. Domicile requirements for city employees.

(a) *Domicile* is defined for the purposes of this section as that dwelling in which a person has a true, fixed, permanent and principal home in which such person lives with the intention of making it a permanent home.

(b) Any person employed or appointed to any job, or as an officer within the city shall be a domiciliary within a fifty (50) mile radius of the City of Long Beach and within the State of New York on the date such employment or appointment commences or shall become a domiciliary within ninety (90) days thereafter and shall remain a domiciliary within a fifty (50) mile radius of the City of Long Beach and within the State of New York continuously for the duration of employment or appointment, except those employees currently employed on the effective date of this resolution.

(c) Any person appointed to any board, commission, bureau or branch of the city after the effective date of this section shall be a domiciliary of the City of Long Beach on the date such appointment commences and shall remain a domiciliary of the City of Long Beach continuously for the duration of the appointment.

(d) All employees shall furnish the city manager with such proof of domicile as he/she shall require.

(e) After the effective date of this section any new employee of the City of Long Beach shall be required to be or to become a domiciliary within a fifty (50) mile radius of the City of Long Beach and within the State of New York within ninety (90) days thereafter or shall forfeit his/her position.

(f) Notwithstanding the above, the City Manager, during his/her term of office shall reside within the City of Long Beach within ninety (90) days of his/her appointment

(Code 1957, §§ 2-701.1, 2-701.2, 2-701.4; Ord. No. 1336/77, § 1, 2-1-77; Ord. No. 2029/08, § 1, 8-5-08; Ord. No. 2062/12, § 1, 1-17-2012)

Sec. 19-3. Reserved.

Editor's note: Ord. No. 2029/08, § 2, adopted Aug. 5, 2008, repealed § 19-3, which pertained to waiver of residency requirement during time of war and derived from Code 1957, § 2-701.3.

Sec. 19-4. City officers and employees to report accidents.

(a) Each appointive officer, clerk, agent or employee of the city who shall have knowledge of any accident or injury to the person or property of any person, on account of which there arises or may arise a claim, suit or cause of action against the city or any officer, agent or employee thereof, or of any accident or injury to property owned by the city, on account of which there arises or may arise a claim, suit or cause of action in favor of the city, shall immediately give written notice thereof, to the officer or employee in charge of his bureau or department.

(b) Each person in charge of any bureau, department, commission or board of the city, who has knowledge that a claim has accrued or may have accrued, or has been made either against or in favor of the city, or any accident or injury to the person or property of any person, or of the city on account of which there arises or may arise a claim, suit or cause of action against, or in favor of, the city, or an officer or employee thereof, shall immediately give written notice to the city manager, the city clerk and the corporation counsel, stating the time when, and the place where, such claim, suit or cause of action may have arisen, and the nature of the same, and such other information and evidence as the city manager may direct or deem necessary.

(c) Any appointive officer, clerk, agent or employee of the city who fails, omits or neglects to comply with the provisions of subsection (a) or (b) shall be subject to such disciplinary action as may be proper under the circumstances of the particular omission, the nature and character of such disciplinary action to be within the sole discretion of the city manager.

(Code 1957, §§ 8-113--8-115)

Sec. 19-5. Classification, positions and compensation, generally.

Personnel positions, classification and compensation shall be as prescribed from time to time by the council and placed on the personnel roster, which roster shall be maintained by the civil service commission.

(Ord. No. 1077/71, § 1, 9-14-71; Ord. No. 1262/74, § 2, 11-26-74)

Secs. 19-6--19-17. Reserved.

ARTICLE II. VACATIONS, SICK LEAVES AND SIMILAR BENEFITS

DIVISION 1. GENERALLY*

***Editor's note:** Ord. No. 1873/97, § 1, adopted February 25, 1997, amended the Code by repealing §§ 19-18--19-21, and adding new §§ 19-18--19-23. Former §§ 19-18--19-21 pertained to similar subject matter, and derived from the Code of 1957, §§ 2-703.1, 2-703.2, 2-703.4, and 2-703.5; and Ord. No. 725, adopted July 14, 1964.

Sec. 19-18. Purpose.

In 1957, the City Council passed an Ordinance conferring certain benefits upon city employees. Subsequent thereto, the city entered into collective bargaining agreements with the firefighters, police and CSEA employees. These contracts superseded the existing statute with respect to covered employees. The purpose of this Article is to establish uniform provisions for vacations and sick leaves and termination benefits to full-time City of Long Beach employees not covered by collective bargaining agreements (referred to as "exempt employees").

(Ord. No. 1873/97, § 1, 2-25-97)

Sec. 19-19. Benefits.

The following benefits are hereby conferred upon all full-time exempt employees in the following manner:

A. *Holidays, personal, bereavement and funeral days.* All holidays, personal time, bereavement time and funeral days guaranteed to civil service employees, exclusive of police and fire departments, under the collective bargaining agreement between the City of Long Beach and Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, effective July 1, 1994 to June 30, 1998 (hereinafter referred to as the "Collective Bargaining Agreement") and any future amendment thereof, shall be extended to exempt employees.

B. *Sick leave entitlement.* All exempt employees shall accrue sick leave time at the rate of one and one-quarter (1 1/4) days per month. Upon termination of employment, exempt employees shall be entitled to payment in cash for the same number of accumulated sick days at the rate of thirty (30) percent of the total number of days accrued, multiplied by the rate of pay at the time of termination.

C. *Maternity leave, health care plan, and life insurance.* Exempt employees shall be entitled to the same maternity leave, hospitalization, major

medical and prescription, dental and optical plans, life insurance, accidental death and dismemberment and disability insurance available to civil service employees pursuant to the collective bargaining agreement then in effect. Exempt employees shall be responsible for ten (10%) percent of their annual health care premium, to be paid with pre-tax dollars, to be deducted from their bi-weekly paycheck

D. *Withdrawal from city health insurance.* Exempt employees, if covered by health insurance from other policies, may elect to withdraw from city medical coverage. One (1) calendar year after such withdrawal, exempt employees shall be entitled to the same bonus for withdrawal as provided to civil service employees pursuant to the collective bargaining agreement then in effect.

E. *Deferred compensation.* Exempt employees shall be entitled to participate in the deferred compensation plan in accordance with the rules and regulations of the city plan to the same extent as provided to Civil Service employees pursuant to the collective bargaining agreement then in effect.

F. *Official board or court appearances.* Exempt employees shall be entitled to attend court or official board hearings to the same extent as civil service emloyees pursuant to the collective bargaining agreement then in effect.

G. *Education.* Exempt employees shall be entitled to reimbursement for tuition for job-related courses, seminars and workshops, as approved by the city manager or his nominee, provided that the cost does not exceed budgetary limitations. Exempt employees shall also be entitled to reimbursement for travel to and from approved educational functions and meetings subject to the same budgetary limitations.

H. *City vehicles and mileage reimbursement.* Certain exempt employees, in the discretion of the city council, may be provided with a city vehicle. All exempt employees shall be entitled to mileage reimbursement for travel in personal cars in the course of their employment in the amount provided to civil service employees pursuant to the collective bargaining agreement then in effect.

I. *Vacations.* Exempt employees shall be entitled to the same vacations available to civil service employees pursuant to the collective bargaining agreement then in effect. However, no exempt employee shall accrue or carry into the succeeding year more than fifty vacation days unless for good cause shown, the city council shall authorize such increased accrual. Permission to exceed fifty (50) days shall be required for each year the exempt employee seeks to accrue more than fifty (50) vacation days. In no event will an employee be entitled to cash equivalent of more than fifty (50) vacation days at the time of his/her termination, resignation, or other leaving from city employment.

J. *Voluntary reduction in work schedule.* An exempt employee who has been employed by the city for a minimum of either one (1) continuous year in a full time salaried position or two (2) consecutive years in a part time position, (working an average minimum of forty (40) hours per bi-weekly pay period in each of the two (2) consecutive years), may at the

discretion of the city manager and with the written approval of the exempt employee's department head, participate in a voluntary work reduction program which permits the exempt employee to work not less than seventy (70) percent of a full time work week with a commensurate reduction in salary and the personal, vacation and sick leave accruals conferred by this section and full or partial credit for such other benefits conferred by this section as the city manager may approve in writing.

(Ord. No. 1873/97, § 1, 2-25-97; Ord. No. 2005/05, § 1, 10-18-05); Ord. No. 2068/12, § 1, 5-22-12)

Sec. 19-20. Compensation in lieu of vacation, sick leave, and personal days upon termination of employment.

Any exempt employee whose services are terminated for any reason other than cause, shall be entitled to cash payment of the monetary value of his/her accumulated and unused vacation time, sick leave, and personal days, up to the limits as set forth in this article. In the case of the death of an exempt employee, such cash payment shall be made to his/her beneficiaries.

(Ord. No. 1873/97, § 1, 2-25-97)

Sec. 19-21. Compensatory time.

No exempt employee may accrue compensatory time.

(Ord. No. 1873/97, § 1, 2-25-97)

Sec. 19-22. Termination leave.

For all exempt employees hired by the city after the effective date of this resolution, there shall be no termination leave pay given when the exempt employee leaves city employ.

(Ord. No. 1873/97, § 1, 2-25-97)

Sec. 19-23. Qualified retiree.

After fifteen (15) years of service to the city and attaining the age of fifty-five (55), or after thirty (30) years of service to the city regardless of the employee's age, an exempt employee and his or her family shall be entitled to receive health benefits as a retired employee to the same extent as a retired civil service employee covered by the civil service collective bargaining agreement then in effect.

(Ord. No. 1873/97, § 1, 2-25-97)

Secs. 19-24--19-28. Reserved.

DIVISION 2. RESERVED*

***Editor's note:** Ord. No. 1877/97, § 1, adopted April 1, 1997, amended the Code by

Sec. 19-20. Compensation in lieu of vacation, sick leave, and personal days upon termination of employment.

repealing Div. 2, §§ 19-29--19-33, in its entirety. Former Div. 2 pertained to vacations, and derived from the Code of 1957, §§ 2-703.3 and 2-703.6; Ord. No. 511-B, adopted December 6, 1960; Ord. No. 686, adopted November 6, 1963; Ord. No. 770, adopted December 7, 1965; Ord. No. 968/70, adopted May 5, 1970; and Ord. No. 1480/82, adopted August 3, 1982

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Secs. 19-29--19-33. Reserved.

Sec. 19-23. Qualified retiree.

Chapter 20 PLANNING AND ZONING GENERALLY*

***Cross references:** Zoning, App. A.

Art. I. In General, §§ 20-1--20-10
Art. II. Zoning Board of Appeals, §§ 20-11--20-28
Art. III. Advisory Board to the Department of City Planning and Development, §§ 20-29, 20-30

ARTICLE I. RESERVED

Secs. 20-1--20-10. Reserved.

ARTICLE II. ZONING BOARD OF APPEALS

Sec. 20-11. Reserved.

Editor's note: Ord. No. 1713/89, § 1, adopted December 19, 1989, repealed § 20-11 in its entirety. Former § 20-11 was concerned with the membership, terms, etc., of the zoning board of appeals, and derived from the § 2-502 of the Code of 1957 and the following legislation:

Ord. No.	Date
1121/72	5-2-72
1205/74	3-5-74
1349/78	1-10-78
1410/80	2-19-80

Similar provisions are now set out in § 140 of the charter.

Sec. 20-12. Meetings; records.

(a) The zoning board of appeals shall meet regularly in city hall on the fourth Thursday of each month at 7:00 p.m or as scheduled by the board. When the time for any such regular meeting falls on a holiday or New Year's Eve, the meeting shall be held at the same hour on the first next Thursday which is not a holiday. A regular meeting may be adjourned to any hour and day certain prior to the next regular meeting.

(b) All meetings of the board shall be open to the public.

(c) The board shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order,

requirement, decision or determination of the board shall immediately be filed in the office of the building commissioner and shall be a public record.

(d) At any meeting of the board, upon motion of any member, duly seconded and approved by the concurring vote of four (4) members of the board, the board may hold one or more special meetings at a time and place to be designated in and by said motion, to hear and determine, upon due notice and publication, any pending applications and any additional business that may arise, with the same force and effect in all respects as if such hearings and determinations were had at a regular meeting of the board.

(Code 1957, § 2-502.3(a); Ord. No. 253-A.19, § 1, 10-4-60; Ord. No. 1551/84, § 1, 9-4-84; Ord. No. 1589/86, § 1, 4-1-86; Ord. No. 2013/06, § 1, 12-19-06; Ord. No. 3052/21, 07-06-2021)

Sec. 20-13. Promulgation of rules and regulations.

The zoning board of appeals shall adopt from time to time such rules and regulations as it may deem necessary for its procedure.

(Code 1957, § 2-502.1)

Sec. 20-14. Powers and duties generally.

The zoning board of appeals, except as otherwise restricted by this Code or the charter of the city, after notice and hearing, may in a specific case and subject to appropriate conditions and safeguards, determine and vary the applications of the zoning regulations of the city in harmony with their general purposes and intent as follows:

(a) Grant a permit where it is provided in this Code or the zoning ordinance of the city that the approval of the zoning board of appeals is required.

(b) Grant a permit in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of the zoning ordinance respecting zoning, setbacks and the use of land.

(c) Permit the location of any accessory structure in any residence district nearer the street or the lot line than is required in the particular district affected.

(d) Permit the extension of a nonconforming use or structure upon the lot occupied by such use or structure at the time when this Code goes into effect.

(e) Permit the extension of a use or structure into a more restricted district immediately adjacent thereto under such conditions as will safeguard the character of the more restricted district.

(f) Grant temporary and conditional permits for a period of two (2) years or less for uses and structures in contravention of the requirements of this Code or the zoning ordinance of the city.

(g) Permit the change of a nonconforming use to another no more

detrimental.

(h) Permit in any industrial district a structure to cover more than the prescribed percentage of the lot.

(i) Permit in any district two (2) accessory structures with a party wall.

(j) Revoke, amend or modify any variance or permit granted by the zoning board of appeals in which any condition imposed by such board either has not been complied with or has been breached or violated.

(Code 1957, § 2-502.2(a)--(i), (k); Ord. No. 1181/73, § 1, 9-4-73)

Sec. 20-15. Petitions and applications to the board.

Every petition and application to the zoning board of appeals, shall be accompanied by a complete and accurate list of the names and addresses of the owners of all of the lands within a radius of one hundred fifty (150) feet of the property affected by the petition or application, and the petitioner or applicant shall prepare a notice addressed to such owners generally, signed by the petitioner or applicant, identifying the property affected thereby, and setting forth the relief requested and the date, hour and place fixed by the zoning board of appeals for a hearing thereon, and shall present such notices to the secretary of the board for mailing not less than ten (10) nor more than twenty (20) days before the date set for the hearing upon the petition or application, together with the cost of mailing the notices by certified mail, return receipt requested, to the owners of all properties abutting the property affected, and by regular mail to all other owners within the affected radius. The secretary of the zoning board of appeals shall thereupon forthwith mail the notices and place on file an affidavit of the mailing.

(Code 1957, § 2-502.3(c); Ord. No. 253-A.19, § 1, 10-4-60; Ord. No. 253-A.22, § 1, 11-28-60; Ord. No. 661, § 1, 10-2-62; Ord. No. 3052/21, 07-06-2021)

Sec. 20-16. Notice of public hearings.

Upon the filing with the zoning board of appeals of an appeal or an application for a permit or variance, the board shall fix a time and place for a public hearing thereon and shall give notice thereof as follows:

(a) By publishing a notice thereof once in a newspaper of general circulation published in the city. The publication shall appear not less than six (6) days nor more than fourteen (14) days before the date set for the hearing.

(b) By mailing a notice thereof to the building commissioner, and to each member of the city council.

(c) The notices required by this section shall state the location of the building or premises and the general nature of the question involved.

(Code 1957, § 2-502.3(b); Ord. No. 253-A.19, § 1, 10-4-60)

Sec. 20-17. Documents which shall accompany petitions and applications to the board.

Every petition and application to the zoning board of appeals, except renewal

petitions and applications thereunder, shall, in addition to the foregoing, be accompanied by the following:

(a) Ten (10) sets of drawings, which may be blueprints, including:

(1) A plot plan showing location of building on the plot;

(2) A ground and typical floor plan of building with all necessary measurements;

(3) A longitudinal section with heights marked thereon; also a front elevation, where such variations apply.

(b) The name of the person interested in the proposed construction as owner, contractor for the furnishing of labor, materials, money or other service in furtherance of the enterprise.

(c) The provisions of any deeds, covenants or restrictions affecting the kind of improvements allowed or prohibited upon the premises.

(d) A "key map" showing the location and zoning of all surrounding properties situated within a radius of two hundred fifty (250) feet of the affected property.

(Code 1957, § 2-502.3(f); Ord. No. 253-A.19, § 1, 10-4-60; Ord. No. 253-A.22, § 1, 11-28-60; Ord. No. 3052/21, 07-06-2021)

Sec. 20-18. Application fees.

There shall be a fee payable upon the filing of an application pursuant to this article, as follows:

Appeal from an administrative decision $200.00
Special exception $150.00
Variance--Residential Renovation. $200.00
Variance-New One Family $500.00
Variance-New Two Family $750.00
Variance--Commercial $300.00
Variance-New Commercial $1,000.00
Variance-Commercial Alteration $600.00
Variance-New Multiple Dwelling $1,500.00
Variance--Off-street parking only $200.00
Variance-Fences $200.00
Variance-Cellular Sites $1,000.00
Temporary permit $150.00

(Code 1957, § 2-502.2(j); Ord. No. 253-A.19, § 1, 10-4-60; Ord. No. 1105/71, § 1, 12-7-71; Ord. No. 1698/89, § 1, 5-16-89; Ord. No. 1960/02, § 1, 7-16-02; Ord. No. 2037/09, § 1, 5-5-2009)

Sec. 20-19. Additional variance applications.

No parcel or part thereof, from which a denial of the zoning board of appeals has been made, may be the subject of an application for a variance within one year after the board has held a public hearing on an application for a variance, unless such application

shall be substantially different from the previous application. The applicant must demonstrate to the board specific and material changes in the conditions upon which the previous application was based and describe such changes as part of the application.

(Ord. No. 1960/02, § 1, 7-16-02)

Sec. 20-20. Posting.

(a) For all applications involving variances, at least one poster, not less than twenty-four (24) inches by eighteen (18) inches in size, must be conspicuously posted along each street frontage of the property which is the subject of the application at least seven (7) days prior to the date set for the public hearing before the zoning board of appeals.

(b) Such poster shall contain the following information printed in a legible manner:

(1) A brief explanation of the proposed variance requested.

(2) That a public hearing will be held before the zoning board of appeals at a specified date, and the time and place with regard to the proposed hearing.

(c) Said poster must remain in place until the public hearing has been held and must be removed not later than seven (7) days thereafter. The applicant or applicant's agent shall verify that said poster is still in place on a daily basis, and shall promptly replace said poster should it be removed or damaged.

(Ord. No. 2014/07, § 1, 1-2-07)

Secs. 20-21--20-28. Reserved.

ARTICLE III. ADVISORY BOARD TO THE DEPARTMENT OF CITY PLANNING AND DEVELOPMENT*

***Editor's note:** Ord. No. 1285/75, adopted June 17, 1975, repealed Art. III, §§ 20-29--20-31, and enacted in lieu thereof a new Art. III, §§ 20-29, 20-30. Former Art. III pertained to the planning advisory board and was derived from Code 1957, §§ 2-503, 2-503.1.

Charter references: Department of city planning and development, § 131 et seq.

Sec. 20-29. Created; composition.

An advisory board to the department of city planning and development is hereby created to consist of eleven (11) members to be appointed by the city manager and to serve at the will of the city manager and without compensation.

(Ord. No. 1285/75, § 1, 6-17-75; Ord. No. 1326/76, § 1, 8-3-76)

Sec. 20-30. Duties and functions.

The planning advisory board shall have the following duties and functions:

(a) To study and report and recommend to the department of city planning and development on all matters referred to it by the director of the department of city planning and development or by the city council or by the city manager. The chairman of such committee shall be appointed by the city manager.

(b) To promote public interest in and understanding in the physical development of the City of Long Beach and in all matters falling within the authority of the department of city planning and development.

(c) To meet not less than once a month and at such other times as called for by the director of the department of city planning and development and to keep a record of its activities and meetings, resolutions, findings and determinations.

(Ord. No. 1285/75, § 1, 6-17-75)

Sec. 20-30. Duties and functions.

Chapter 21 PLUMBING CODE*

***Cross references:** Building code, Ch. 7; electrical code, Ch. 10; housing and property rehabilitation and conservation code, Ch. 13; water and sewers, Ch. 25.

Art. I. In General, §§ 21-1--21-15
Art. II. Administration and Enforcement, §§ 21-16--21-45
Div. 1. Generally, §§ 21-16--21-24
Div. 2. Plumbing Permits, §§ 21-25--21-33
Div. 3. Examining Board of Plumbers, §§ 21-34--21-45
Art. III. Plumbers, §§ 21-46--21-75
Div. 1. Generally, §§ 21-46--21-55
Div. 2. Certificates of Competency, §§ 21-56--21-75
Art. IV. Natural Gas Installations, §§ 21-76--21-101
Div. 1. Generally, §§ 21-76--21-85
Div. 2. Minimum Standards, §§ 21-86--21-101

ARTICLE I. IN GENERAL

Sec. 21-1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them:

Employing or *master plumber* shall mean a person having a regular place of business and who, by himself or journeyman plumbers in his employ, performs plumbing work.

State law references: For similar provisions, see Gen. City Law, § 40.

House drain shall mean that part of the main horizontal drain and its branches inside the walls of the building, vault or area and extending to and connecting with the house sewer.

House sewer shall mean that part of the main drain or sewer extending from a point two (2) feet outside of the outer front wall of the building, vault or area to its connection with a public sewer, private sewer or cesspool.

Plumbing shall mean any work appertaining to the water mains, water pipes, gas pipes, drainage pipes, vent pipes and all fixtures and appliances in a building or plot of land, and leading into a building or plot of land including a lawn sprinkler system, used or usable for distributing water, waste or gas to and from the premises.

Private sewer shall mean main sewers that are not constructed by and under the supervision of the department of water and sewers.

Soil line shall mean any vertical line of pipe having outlets above the floor or first story for water closet connections.

Vent pipe shall mean any special pipe provided to ventilate the system of piping and to prevent trap siphonage and back pressure.

Waste line shall mean any vertical line of pipe having outlets above the first floor

for fixtures other than a water closet.

(Code 1957, §§ 2-505.2, 12-118)

Sec. 21-2. Applicability of New York State Building Construction Code.

The New York State Building Construction Code, made applicable to the city by Resolution No. 109 duly adopted by the city council on August 6, 1957, and the section thereof which applies to plumbing is declared to be applicable to plumbing installations in the city.

(Code 1957, § 12-118)

Sec. 21-3. Persons who may make plumbing installations or repairs.

The plumbing and drainage of all buildings, both public and private, in the city, and all repairs and alterations in the plumbing and drainage systems of all buildings in the city, shall be performed only by a person who has first obtained a certificate of competency from the examining board of plumbers of the city pursuant to the provisions of this chapter.

(Code 1957, §§ 12-101, 12-111)

Sec. 21-3.1. Persons who have plumbing licenses of the Town of Hempstead.

Notwithstanding anything to the contrary contained in this chapter, any person who holds a valid current license to conduct the trade or business of an employing or master plumber duly issued by the Town of Hempstead, in Nassau County, New York, after having passed an examination given by the examining board of plumbers of the said Town of Hempstead, shall be deemed to be competent to conduct that business in the City of Long Beach, New York, and shall not be required to take such an examination given by the examining board of plumbers of the City of Long Beach, New York, as a prerequisite to conducting that business in the City of Long Beach, New York, but he must comply with and shall be subject to and bound by all other provisions and requirements of this chapter, and by all rules and regulations adopted pursuant thereto, and he must have a valid current certificate of competency issued by the examining board of plumbers of the City of Long Beach, New York.

(Ord. No. 1344, § 1, 11-1-77; Ord. No. 1375/78, § 1, 8-1-78)

Sec. 21-3.2. Reciprocal agreements with other municipalities.

Anything contained in this chapter to the contrary notwithstanding, the city manager may enter into a reciprocal agreement with any other town, city or incorporated village in the County of Nassau, which agreement shall provide that any person who holds a valid license to conduct the trade or business of an employing or master plumber issued by such other municipality, after having passed an examination given by the examining board of plumbers of such other municipality, shall be deemed to be competent to conduct that business in the City of Long Beach, New York, and shall not be required to take such examination given by the examining board of plumbers of the City of Long Beach, New York, as a prerequisite to conducting that business in the City

of Long Beach, New York, but he must comply with and shall be subject to and bound by all other provisions and requirements of this chapter, and by all rules and regulations adopted pursuant thereto, and he must have a valid certificate of competency issued by the examining board of plumbers of the City of Long Beach, New York. Such agreement must provide that such other municipality shall extend to any person who holds a valid master plumber's license issued by the City of Long Beach, after having passed an examination given by the examining board of plumbers of the City of Long Beach, reciprocal and equal rights and privileges in such other municipality.

(Ord. No. 1391/79, § 1, 2-6-79)

Sec. 21-3.3. Tri-town reciprocal agreement for the licensing of plumbers.

(a) Notwithstanding anything to the contrary contained in this chapter, any applicant for a certificate of competency from the examining board of plumbers of the City of Long Beach who maintains his principal place of business within the County of Nassau and who holds a currently valid certificate of competency and/or a master plumber's license, duly issued after examination by the Town of Hempstead, Town of North Hempstead or Town of Oyster Bay or any other municipality within the County of Nassau which is a contractual party to a certain reciprocal agreement for the licensing of master plumbers, entered into between the Towns of Hempstead, North Hempstead and Oyster Bay on September 15, 1969, shall, without further examination or fee, be entitled to the same rights and privileges as are granted to one who has obtained a Long Beach master plumber's certificate of competency under this chapter, provided, however, that such applicant shall submit, together with his application, a certificate of competency and/or a certified copy of a currently valid master plumber's license.

(b) Upon suspension or revocation of any certificate of competency or license issued by the examining board of plumbers or other authorized officer of the City of Long Beach, all parties to the aforesaid reciprocal agreement shall be notified in writing.

(Ord. No. 1478/82, § 1, 6-15-82)

Sec. 21-4. Penalty for violation of chapter or rules and regulations.

Any person violating any of the provisions of this chapter, or any rules or regulations of the building department or of the examining board of plumbers, shall be deemed guilty of an offense, and on conviction, be subject to a fine of not exceeding two hundred fifty dollars ($250.00), or imprisonment not exceeding fifteen (15) days, or both, and if a master plumber, shall in addition forfeit any certificate of competency or registration which he may hold under the provisions hereof.

(Code 1957, § 12-112; Ord. No. 1133/72, §§ 1, 3, 7-11-72)

Secs. 21-5--21-15. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

***Cross references:** Enforcement procedure for the violation of the plumbing code, § 13-25.

DIVISION 1. GENERALLY

Sec. 21-16. Inspector of plumbing.

The city manager shall appoint an inspector or inspectors of plumbing whose duties shall be to inspect the construction and alteration of all plumbing work performed in the city and to report in writing the results of such inspection to the building department. The inspector of plumbing shall also report in writing to the building department any person engaged in or carrying on the business of an employing or master plumber, without having the certificate of competency required by this chapter, or performing plumbing work of any nature in violation of any of the provisions of this chapter and the rules and regulations pertaining thereto.

(Code 1957, § 12-107)

State law references: Inspectors of plumbing, Gen. City Law, § 48 et seq.

Sec. 21-17. Notice of violation of rules.

(a) Whenever any inspector of plumbing or other person reports a violation of any law, rule or regulation for plumbing or drainage, or a deviation from any officially approved plan or specifications for plumbing or drainage filed with any board or department, the building department shall first serve a notice of the violation thereof upon the employing or master plumber doing the work.

(b) A notice issued pursuant to subsection (a) may be served personally or by mail, and if by mail it may be addressed to the employing or master plumber at the address registered by him with the building department, but the failure of an employing master plumber to register will relieve the building department from the requirement of giving notice of violation. Unless the violation is removed within three (3) days after the day of serving or mailing such notice, exclusive of the day of serving or mailing, the building department may proceed according to law.

(Code 1957, §§ 12-109, 12-110)

Sec. 21-18. Notice to be given upon commencement of work and at time for inspection.

Written notice shall be given to the examining board of plumbers by the plumber authorized to do the work when any work is begun and at such time as the work is ready for inspection.

(Code 1957, § 12-116)

Secs. 21-19--21-24. Reserved.

DIVISION 2. PLUMBING PERMITS

Sec. 21-25. When required.

(a) No person shall install or cause to be installed any new plumbing or drainage work in a building or structure, or extend or alter or cause to be extended or altered any existing plumbing or drainage work, whether the work is to be connected to a sewer or water main or not, without first obtaining a permit therefor from the building department.

(b) Whenever an emergency exists, where the delay which would be occasioned in obtaining the permit required by subsection (a) would cause damage to person or property, then the work may go forward without first having obtained the permit. However, the permit must be obtained in the manner prescribed in this division and the fee paid within twenty-four (24) hours after the emergency work has been completed.

(Code 1957, §§ 12-113.1, 12-114; Ord. No. 729, § 1, 9-1-64)

Sec. 21-26. Application; fees.

A permit required by this division may be obtained upon written application therefor by the person authorized to do the work pursuant to this chapter, accompanied by the plans and specifications provided for in this division and upon payment to the building department of the following fees:

(a) For a permit to install any new plumbing or drainage work in a building or structure, or to extend or alter any existing plumbing or drainage work, the fee shall be a minimum of ninety dollars ($90.00) for up to five (5) fixtures, plus ten dollars ($10.00) additional for each fixture over five (5).

(b) For a certificate of approval of plumbing or drainage work, the fee shall be twenty-five dollars ($25.00).

(c) For a permit to install a sprinkler or standpipe system in an existing building, the fee shall be ninety dollars ($90.00) for the first $1,000.00 cost of installation, plus ten dollars ($10.00) for each additional $1,000.00 cost of installation or part thereof.

(d) For a permit to install a water meter, the fee shall be sixty dollars ($60.00).

(e) *Increased fees.* Where construction or other work requiring a permit pursuant to this chapter was commenced prior to the issuance of a permit, the fee for such construction or other work shall be two (2) times the amount otherwise provided for in chapter 21, article II. This subsection 21-26(e) shall not apply to any permit application submitted to the building department in compliance with this chapter on or before the effective date of this section.

(Code 1957, § 12-114; Ord. No. 839, § 1, 2-7-67; Ord. No. 1104/71, § 1, 12-7-71; Ord. No. 1283/75, § 17, 6-17-75; Ord. No. 1305/75, § 2, 12-30-75; Ord. No. 1525/84, § 2, 1-17-84; Ord. No. 1743/91, § 2, 2-19-91; Ord. No. 1904/98, 10-20-98; Ord. No. 3049/21, 05-04-2021)

Cross references: Permits and fees for permits to install oil burner, or other type of central heating or air conditioning units, § 7-21 et seq.

Sec. 21-27. Submission of plans and specifications.

(a) Before a permit required by this division shall be issued, duplicate drawings and descriptions, on forms furnished by the building department, for all plumbing and drainage of all buildings, both public and private, and all repairs and alterations in the plumbing and drainage of all buildings shall be properly prepared and executed and filed by the owner or architect with the building department for approval. The plans shall be drawn to scale in ink, on cloth, or they shall be cloth prints of such scale drawings, and shall consist of such floor plans and sections as may be necessary to show clearly all plumbing and drainage work to be done and must show partitions and method of ventilating water closet apartments.

(b) No work for which a permit is required by this division shall be commenced until the person to be authorized to do the work shall sign the specifications and make an affidavit on forms furnished by the building department that he is duly authorized to proceed with the work and no plumbing and drainage or repairs and alterations thereto shall be commenced until a permit therefor has been first obtained from the building department. No licensed and registered plumber of the city shall sign the specifications or act as agent for a plumber who has not obtained a certificate of competency from the examining board of plumbers pursuant to this chapter, unless the licensed plumber performs or supervises the work set forth in the specifications.

(c) Repairs or alterations of plumbing and drainage in the city may be made without filing drawings and descriptions required by subsections (a) and (b), by and with the consent of the building department, if written notice of such repairs or alterations shall be given to the building department before the work is commenced, but in no case shall such repairs or alterations be construed to include cases where vertical lines or horizontal branches of soil, waste, vent or leader pipes are proposed to be used.

(Code 1957, §§ 12-114, 12-115)

Sec. 21-28. Violation.

Performing any plumbing work in the city without obtaining the permit aforesaid, and paying the fee called for thereby, shall be deemed and same is hereby declared to be a violation. Said violation is punishable by a fine which shall not exceed two hundred fifty dollars ($250.00), or imprisonment not exceeding fifteen (15) days, or both such fine and imprisonment. The owner of any building, structure or part thereof, or wall, platform, staging or flooring to be used for standing or seating purposes, against which any violations of this chapter shall be placed, or shall exist, and any architect, professional engineer, builder, plumber, carpenter, mason, contractor, subcontractor, foreman or any other person who may be employed or assist in the commission of any such violation

and, who shall violate any provision of this chapter, or fail to comply therewith, or any requirement thereof or any regulation or order made thereunder, of who shall build in violation of any detailed statement of specifications of plans, submitted and approved thereunder, or of any certificate or permit issued thereunder, shall be severally liable for each and every violation and noncompliance. Each day on which a violation continues shall constitute a separate offense.

(Code 1957, § 12-114; Ord. No. 1145/72, § 3, 10-3-72; Ord. No. 1885/97, § 1, 11-5-97)

Sec. 21-29. Permits to expire if work not commenced or completed within time limitation.

(a) For permits issued pursuant to this division, work shall commence wihtin ninety (90) days of the date of issuance of same and shall be completed within one (1) year of said date of issuance of the permit. If in the discretion of the building commissioner the project shall require a period beyond one (1) year to complete, the same may be granted initially. A project shall be deemed abandoned if work is not commenced within the specified time limitation, or if the project is not completed prior to or on the expiration date of the permit.

(b) Whenever a project has been deemed abandoned, as aforesaid, it shall be unlawful to continue work thereon except upon the issuance of a supplementary permit setting forth an extension of time. If a written application is filed outlining the reasons necessitating an extension of time, together with the required fee, the commissioner of buildings may, for good cause, allow a reasonable extension of time and grant the issuance of a supplementary permit.

(c) Where application is made to complete any project beyond the required time limitation, it will be necessary to obtain a supplementary permit for an additional period, but in no event shall this completion period extend beyond said time limitation. Each supplementary permit issued for an extension of time shall be limited to a period of ninety (90) days.

(d) The fee required for each extension request submitted for review shall be twenty-five (25) percent of the total fees charged for the issuance of the initial permit, but shall not be less than sixty dollars ($60.00) nor exceed one thousand dollars ($1,000.00). The required fee shall be paid upon filing the application for an extension permit. Any fees paid for an extension shall be nonrefundable and shall not be applicable to, nor deductible from, any other fees associated with such permit.

(Ord. No. 1885/97, § 1, 11-5-97)

Secs. 21-30--21-33. Reserved.

DIVISION 3. EXAMINING BOARD OF PLUMBERS*

***State law references:** Examining boards of plumbers, Gen. City Law, § 40-a et seq.

Sec. 21-34. Composition; appointment and compensation of members.

The city manager shall appoint an examining board of plumbers consisting of five (5) persons as prescribed by the General City Law of the state, compensation for which board shall be fixed by the city council.

(Code 1957, § 2-505)

Sec. 21-35. Duties and functions.

The examining board of plumbers shall have the following duties and functions:

(a) To meet at stated intervals and to meet whenever the city manager shall in writing request them to do so.

(b) To examine all persons desiring or intending to engage in the trade, business or calling of plumbing as employing plumbers in the city, with the power to examine persons applying for certificates of competency as such employing or master plumbers or as inspectors of plumbing, to determine their fitness and qualifications for conducting the business of employing or master plumbers or to act as inspector of plumbing, and to issue certificates of competency to all such persons who shall have satisfactorily passed an examination before such board and shall be by it determined to be qualified for conducting the business of employing or master plumbers, or competent to act as inspectors of plumbing.

(c) To formulate in conjunction with the city manager, a code of rules regulating the work of plumbing and drainage in the city, including the materials, workmanship and manner of executing such work and from time to time to add to, amend or alter the same, or in their discretion to adopt the standard plumbing code recommended by the state department of health.

(d) To charge each person applying for examination a nonreturnable fee of twenty-five dollars ($25.00) for examination made of such applicant by the examining board of plumbers. All moneys shall be paid to the city cashier.

(Code 1957, § 2-505.1(a)--(c); Ord. No. 1478-82, § 2, 6-15-82)

State law references: For similar provisions, see Gen. City Law, § 44.

Secs. 21-36--21-45. Reserved.

ARTICLE III. PLUMBERS*

***Charter references:** Authority to license and regulate plumbers, § 74.

Related local laws reference--Issuance of "licensed plumber" plates, § 10 et seq.

DIVISION 1. GENERALLY

Sec. 21-46. When corporations may do business as employing or master plumbers.

A domestic corporation desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in the city, as an employing or master plumber, or desiring or intending to perform the plumbing or drainage of any building, public or private therein, or to perform repairs or alterations in the plumbing or drainage of any building in the city, may do so if one or more officers of the corporation separately or aggregately actually hold and own at least fifty-one (51) per cent of the issued capital stock of the corporation, and if each of the officers holding the required percentage of the stock is the holder of a certificate of competency issued pursuant to this article. Each and every stockholder of the corporation holding a certificate of competency shall comply with all the rules and regulations applicable to persons authorized to perform plumbing and drainage in the city. The corporation shall register at the office of the building department as provided in this article.

(Code 1957, § 12-103)

State law references: For similar provisions, see Gen. City Law, § 45-a.

Sec. 21-47. Registration of employing or master plumbers required; certificate of competency prerequisite to registration.

Each employing or master plumber carrying on his trade, business or calling in the city shall register his name and address at the office of the building department and thereupon he shall be entitled to receive a certificate of registration; however, an employing or master plumber shall, at the time of applying for registration, hold a certificate of competency from the examining board of plumbers of the city.

(Code 1957, §§ 12-105, 12-106)

Sec. 21-48. Term and renewal of certificates of registration.

All certificates of registration issued under the provisions of this division shall expire on the last day of December of the year in which they shall be issued, and may be renewed within thirty (30) days preceding their expiration. Renewals shall be for one year from the first day of January in each year.

(Code 1957, § 12-108)

Sec. 21-49. Cancellation of registration.

The registration of an employing or master plumber may be cancelled by the building department for a violation of the rules and regulations for the plumbing and drainage of the city duly adopted, after a hearing had before the building department and upon a prior notice of not less than ten (10) days stating the ground of complaint and served on the person charged with the violation, but the revocation shall not be operative unless concurred in by the examining board of plumbers.

(Code 1957, § 12-106)

Sec. 21-50. Display of license.

(a) The certificate of license issued pursuant to this article shall be conspicuously displayed upon the premises where the business is conducted.

(b) Plumbers shall be issued by the city clerk a vehicle decal for each vehicle identified by the licensee as a vehicle which will be used in connection with the licensed activities. Such vehicle decals shall be conspicuously displayed in the vehicle(s) used in connection with the licensed activities during the term of the license, and shall be removed upon expiration, suspension or revocation of said license. The first two (2) decals will be included in the fee for the license and a fee of twelve dollars ($12.00) will be charged for each additional or replacement decal. Failure to display said decal shall be punishable by a minimum fine of one hundred dollars ($100.00).

(Code 1957, § 12-104; Ord. No. 1083/71, § 1, 10-5-71; Ord. No. 2022/07, § 3, 11-07-07; Ord. No. 3007/16, § 1, 5/24/2016)

Secs. 21-51--21-55. Reserved.

DIVISION 2. CERTIFICATES OF COMPETENCY

Sec. 21-56. When required.

(a) A person desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in the City of Long Beach as an employing or master plumber, or a person desiring or intending to install or provide for the plumbing or drainage of any building therein, whether public or private, or to perform repairs or alterations in the plumbing or drainage of any building as an employing or master plumber, shall be required to submit to an examination before the examining board of plumbers as to his experience and qualifications for such trade, business or calling or the performance of such work, and it shall be unlawful for any person to conduct the trade, business or calling of plumbing or to perform plumbing work in the City of Long Beach unless he shall have first obtained a certificate of competency from the examining board of plumbers of the city.

(b) Notwithstanding the provisions of section 21-3 of this chapter, subdivision (a) of this section 21-56 shall not apply to any person conducting the trade, business or calling of a plumber or of plumbing in the City of Long Beach, solely for the purpose of rehabilitating the plumbing and/or heating equipment of premises

within the City of Long Beach under and pursuant to the federally funded Nassau County Community Development Block Grant Rehabilitation Program subsidized in whole or in part and administered by the Nassau County Office of Community Development, provided that any person desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in the City of Long Beach for such limited purpose must first obtain from the city clerk of the City of Long Beach a temporary license restricted to that limited purpose, and must submit proof that he holds a valid and subsisting license or licenses to conduct the trade or business of a plumber or plumbing issued by one or more recognized municipal subdivisions of the County of Nassau. The fee for such a temporary restricted license shall be twenty-seven dollars and fifty cents ($27.50), and it shall be issued only with the approval of the building commissioner or his designee, who shall specify the term, amount and duration of the bond to be furnished, and such license shall be issued for a term not to exceed one year and shall expire on November thirtieth.

(c) No plumber shall authorize, allow or permit his name or license to be used by any other person for the purpose of obtaining permits or doing any plumbing work, and all plumbers will be held strictly accountable and responsible for the violation of any laws, ordinances, rules and regulations by any person in his employ or acting in contravention of this section.

(Code 1957, § 12-102; Ord. No. 1283/75, § 18, 6-17-75; Ord. No. 1305/75, § 3, 12-30-75; Ord. No. 1309/76, § 1, 2-17-76; Ord. No. 1333/77, § 1, 1-4-77)

Sec. 21-57. Persons ineligible for certificate.

(a) No person shall be examined for a certificate of competency required by this division unless he shall have had experience of at least five (5) years as a journeyman plumber, and is able to furnish satisfactory evidence of such fact.

(b) No application for a certificate of competency required by this division will be received from any person who is not a citizen of the United States.

(c) The examining board of plumbers shall refuse to receive an application for a certificate of competency required by this division from any person who at the time of making the application may be unlawfully engaged in business as a master or employing plumber.

(Code 1957, §§ 12-700(b), 12-701)

Sec. 21-58. Application; supporting documents.

(a) Each person desiring a certificate of competency required by this division shall, before being examined, file with the examining board of plumbers an application on such forms as may be prescribed by the board, and shall furnish to the board such information as it may require concerning the applicant's fitness and qualifications to receive a certificate as aforesaid. All applications shall be under oath.

(b) Each applicant for a certificate of competency required by this division, at the time of making his application, shall be required to present his photograph, the size of which photograph shall not exceed two and one-half (2 1/2) inches

square, and to bear on its reverse side the name and address of the applicant.

(c) Each applicant for a certificate of competency required by this division shall be required to furnish two (2) references who shall appear before the examining board of plumbers and sign under oath, on forms prescribed by the board, certifying to the time the applicant has been employed by them as a journeyman plumber. The references, at the time of the signing of the application by the applicant shall be lawfully engaged in the plumbing business in the state. Both references shall be required to present their cards of registration for the current year at the time of the signing of the application for a certificate of competency required by this division.

(d) Applicants for a certificate of competency required by this division of foreign birth shall present proof of United States citizenship.

(e) The examining board of plumbers shall receive applicants for a certificate of competency required by this division with his two (2) references, on the first Tuesday of the month between the hours of 2:00 p.m. and 4:00 p.m.

(Code 1957, §§ 12-700(a), 12-701)

Sec. 21-59. Expiration of application.

All applications for a certificate of competency required by this division shall expire and be canceled after a period of one year if the applicant does not appear for an examination within that period.

(Code 1957, § 12-700(h))

Sec. 21-60. Additional investigation of applicant.

Before issuing a certificate of competency required by this division, the examining board of plumbers shall inquire into the applicant's fitness and qualifications for conducting a plumbing business, and may require the applicant to submit under oath such evidence, in addition to the examination required by this division, as will satisfy the board that he is a person of good repute, character and responsibility, and otherwise qualified to engage in business as a master or employing plumber.

(Code 1957, § 12-700(i))

Sec. 21-61. Examinations.

The examination administered by the examining board of plumbers as a prerequisite to a certificate of competency required by this division shall be as follows:

(a) The examination of the examining board of plumbers shall be in two (2) parts, namely, a practical test to determine the applicant's skill as a journeyman and a written examination.

(b) The written examination shall consist of questions to determine the applicant's fitness and qualifications to engage in the business of master or employing plumber. All examinations shall be written by the applicant and shall be in the English language.

(c) The time and place of holding examinations shall be left to the discretion of the plumbing examining board. Ample notice shall be given to applicants.

(d) Persons who pass the examinations as prescribed by the examining board of plumbers shall be eligible to receive a certificate of competency as master or employing plumber.

(e) An applicant who fails in the practical test shall not be eligible for another test until the expiration of three (3) months; should he fail in the second test, he will not be eligible for a third test until the expiration of six (6) months; and, failing in the third test, he will not be eligible for a fourth test until the expiration of one year.

(f) An applicant who fails in the written examination shall not be eligible for reexamination until the expiration of one month; should he fail in the second examination he will not be eligible for another examination until the expiration of three (3) months; should he fail in the third examination he will not be eligible for another examination until the expiration of six (6) months; and should he fail in the fourth examination he will not be eligible for another examination until the expiration of one year.

(Code 1957, § 12-700(c)--(g))

State law references: Examination prerequisite to certificate of competence, Gen. City Law, § 45.

Sec. 21-62. Time for giving examination.

The examination for a certificate of competency required by this division shall be held by the examining board of plumbers within one week of the filing of the application by any applicant therefor.

(Code 1957, § 2-505.1(d))

Sec. 21-63. Fees.

(a) Each applicant for an examination for a certificate of competency required by this division shall pay the sum of thirty-five dollars ($35.00) and the further sum of one hundred fifteen dollars ($115.00) upon the issuance of a permanent certificate to engage in the business of master or employing plumber, and thereafter a fee of thirty-five dollars ($35.00) for each renewal of such license, provided that an application for each renewal, accompanied by the renewal fee, shall have been made prior to the expiration of the existing license.

(b) A temporary certificate shall be issued upon payment of one hundred seventy-five dollars ($175.00) to cover the plumbing work necessary on one job only. Such work under such temporary certificate is not to exceed six (6) months.

(c) Where the applicant has paid the first thirty-five dollars ($35.00) for examination and failed, for a subsequent examination he shall pay an amount to be fixed by the examining board of plumbers, not to exceed thirty-five dollars ($35.00).

(Code 1957, § 12-700(j); Ord. No. 1189, § 1, 12-18-73; Ord. No. 1260/74, § 3, 11-26-74;

Ord. No. 1487/82, § 1, 10-19-82; Ord. No. 1555/84, § 11, 10-16-84)

Sec. 21-64. Duplicate certificates.

In case a certificate of competency issued pursuant to this division is lost by the holder thereof, the examining board of plumbers may issue a duplicate where the original certificate was issued during the term of office of all the members of the examining board of plumbers in office when a duplicate certificate is requested. The charge for a duplicate certificate shall be five dollars ($5.00). In other cases, the examining board of plumbers shall issue a certificate of record stating that the records of the office show that a certificate was issued to a specific person. The charge for a certificate of record shall be two dollars ($2.00).

(Code 1957, § 12-700)

Sec. 21-65. Temporary certificates.

No person, otherwise qualified, who has not procured a certificate of competency from the examining board of plumbers pursuant to this chapter shall receive or be entitled to receive more than one temporary certificate of competency per year to do plumbing and drainage work in the city, or repairs or alterations thereto. Any person who has performed any plumbing and drainage work or repairs or alterations to plumbing and drainage in the city pursuant to a temporary certificate of competency, shall not thereafter perform any plumbing and drainage work or repairs or alterations thereto in the city without complying with all the rules and regulations of this chapter pertaining to licensing and registering of persons desiring, intending to and actually conducting, engaging in or carrying on the business, trade or calling of a plumber or of plumbing in the city as a master plumber.

(Code 1957, § 12-117)

Secs. 21-66--21-75. Reserved.

ARTICLE IV. NATURAL GAS INSTALLATIONS

DIVISION 1. GENERALLY

Sec. 21-76. When permit required; persons eligible for permit.

Before the construction or alteration of any gas piping in any building or part of any building, a permit therefor must be obtained from the examining board of plumbers. This permit shall be issued only to a plumber who is registered pursuant to this chapter. Small alterations may be made to natural gas installations by notifying the examining board of plumbers, using the same blank forms provided for alterations and repairs to plumbing.

(Code 1957, § 12-601)

Sec. 21-77. Tests.

After all gas piping is fitted and fastened and all outlets capped up, there shall be applied by the plumber, in the presence of an inspector of plumbing, a test with air to a pressure equal to a column of mercury six (6) inches in height, which shall stand for five (5) minutes; only a mercury gauge shall be used. No piping shall be covered up, nor shall any fixture, gas heater or range be connected thereto until a card showing the approval of this test has been issued by the inspector of plumbing.

(Code 1957, § 12-618)

Sec. 21-78. Gas meters not to be set until certificate of compliance is issued.

No gas meter shall be set by any gas company until a certificate is filed with it from the building department certifying that the gas pipes and fixtures comply with the provisions of this article.

(Code 1957, § 12-619)

Secs. 21-79--21-85. Reserved.

DIVISION 2. MINIMUM STANDARDS

Sec. 21-86. Quality and weight of pipe.

All gas pipe shall be of best quality wrought iron or steel and of the kind classed as standard pipe, and shall weigh according to the following scale:

Diameter	Weight per Linear foot
3/8 inch	0.56 pound
½ inch	0.85 pound
¾ inch	1.12 pounds

1 inch	1.67 pounds
1 ¼ inch	2.24 pounds
1 ½ inch	2.68 pounds
2 inch	3.61 pounds
2 ½ inch	5.75 pounds
3 inch	7.54 pounds
3 ½ inch	9.00 pounds
4 inch	10.66 pounds

No pipe shall be allowed of less than 3/8 inch in diameter.

(Code 1957, § 12-602)

Sec. 21-87. Fittings.

All fittings, except stopcocks or valves, shall be malleable iron.

(Code 1957, § 12-603)

Sec. 21-88. Valves or cocks.

There shall be a heavy brass straightway cock or valve on the service pipe immediately inside the front foundation wall. Iron cocks or valves are not permitted.

(Code 1957, § 12-604)

Sec. 21-89. Risers.

(a) Where it is not impracticable to do so, all risers shall be left not more than five (5) feet from the front wall.

(b) No pipe shall be laid so as to support any weight, except fixtures, or to be subjected to any strain whatsoever. All pipe shall be properly laid and fastened to prevent becoming trapped, and shall be laid when practicable, above timbers or beams instead of beneath them. Where running lines or branches cross beams, they must do so within thirty-six (36) inches of the end of the beams, and in no case shall the pipes be let into the beams more than two (2) inches in depth. Any pipe laid in a cold or damp place shall be properly dripped, protected and painted with two coats of red lead and boiled oil or tarred.

(Code 1957, § 12-605)

Sec. 21-90. Laying gas pipe.

No gas pipe shall be laid in cement or concrete unless the pipe or channel in which it is placed is well covered with tar.

(Code 1957, § 12-606)

Sec. 21-91. Drops.

All drops must be set plumb and securely fastened, each one having at least one solid strap. Drops and outlets less than three-fourths (3/4) of an inch in diameter shall not be left more than one inch below plastering, centerpieces or woodwork.

(Code 1957, § 12-607)

Sec. 21-92. Outlets.

All outlets and risers shall be left capped until covered by fixtures.

(Code 1957, § 12-608)

Sec. 21-93. Couplings to be used.

No unions or running threads shall be permitted. Where necessary to cut or to repair leaks or make extensions, pipe shall be again put together with right and left couplings.

(Code 1957, § 12-609)

Sec. 21-94. When gasfitter's cement permitted.

No gasfitter's cement shall be used, except in putting fixtures together.

(Code 1957, § 12-610)

Sec. 21-95. Gas brackets and fixtures.

(a) All gas brackets and fixtures shall be placed so that the burners of same are not less than three (3) feet below any ceiling or woodwork unless the same is properly protected by a shield, in which case the distance shall not be less than eighteen (18) inches.

(b) No swinging or folding gas brackets shall be placed against any stud partition or woodwork.

(c) No gas brackets on any lath and plaster partition or woodwork shall be less than five (5) inches in length, measured from the burner to the plaster surface or woodwork.

(d) Gas lights placed near window curtains or any other combustible material shall be protected by a proper shield.

(Code 1957, § 12-611)

Sec. 21-96. Gas outlets.

Gas outlets for burners shall not be placed under tanks, back of doors or within four (4) feet of any meter.

(Code 1957, § 12-612)

Sec. 21-97. Scale to be used in piping buildings.

All buildings shall be piped according to the following scale:

Diameter in inches	Length In feet	Burners
3/8	26	3

½	36	6
¾	60	20
1	80	35
1 ¼	110	60
1 ½	150	100
2	200	200
2 ½	300	300
3	450	450
3 ½	500	600
4	600	750

(Code 1957, § 12-613)

Sec. 21-98. Diameter of outlets.

Outlets for gas ranges shall have a diameter not less than required for six (6) burners, and all gas ranges and heaters shall have a straightway cock on service pipe.

(Code 1957, § 12-614)

Sec. 21-99. Brass tubing generally.

(a) All brass tubing used for arms and stems of fixtures shall be at least No. 18 standard gauge and full size outside so as to cut a full thread.

(b) All threads on brass pipe shall screw in at least five-sixteenths (5/16) of an inch. All rope or square tubing shall be brazed or soldered into fittings and distributors, or having a nipple brazed into the tubing.

(Code 1957, § 12-616)

Sec. 21-100. Brass piping deemed as fixtures.

When brass piping is used on the outside of plastering or woodwork, it shall be classed as fixtures.

(Code 1957, § 12-615)

Sec. 21-101. Cast fittings.

All cast fittings, such as cocks, swing joints, double centers, nozzles, etc., shall be extra-heavy brass. The plugs of all cocks must be ground to a smooth and true surface for their entire length, be free from sandholes, have not less than three-fourths (3/4) of an inch bearing, except in cases of special design, have two (2) flat sides on the end for the washer, and have two (2) nuts instead of a tail screw. All stop pins to keys or cocks shall be screwed into place.

(Code 1957, § 12-617)

Chapter 22 POLICE*

***Charter references:** Police department, § 44 et seq.; appointment of police officers by the city manager, § 45; qualifications of members of the police department, § 50; arrests, § 59.

Cross references: Traffic division of the police department, § 15-52 et seq.

Art. I. In General, §§ 22-1--22-16
Art. II. Custody of Personal Property, §§ 22-17--22-29
Art. III. Automatic Alarm Systems, §§ 22-30--22-43
Art. IV. Dissemination of Information Concerning Sex Offenders, §§ 22-44--22-53

ARTICLE I. IN GENERAL

Sec. 22-1. Policewomen.

The police commissioner shall have the power to appoint policewomen to the police department, who shall have all the powers and duties of police officers.

(Code 1957, § 2-410.22)

Sec. 22-2. Letters of good conduct; fees to be established.

Any person applying for a letter of good conduct from the police department shall pay a fee of twelve dollars ($12.00) for the preparation of said letter by the police department. Such fee shall be paid to the police department at the time of receipt of the letter by the applicant. Payment of said fee shall be by cash or money order only. Moneys received for these fees shall be turned over to the treasurer of the City of Long Beach upon receipt by the police department.

(Ord. No. 1355/78, § 1, 4-4-78; Ord. No. 1857/96, § 1, 7-26-96; Ord. No. 3007/16, § 1, 5/24/2016)

Sec. 22-3. Sale of photographs.

The property clerk may sell prints of any photographs taken by members of the police department, subject to the approval of the police commissioner, to any person, firm or corporation involved or having a legitimate interest in the subject matter of such photographs, or to the attorney or insurance representative of such person, firm or corporation. The charge for such photographs shall be twelve dollars ($12.00) for each eight-inch by ten-inch photograph, which sums shall be collected and paid into the city treasury by the property clerk.

(Ord. No. 1382-78, § 1, 9-5-78; Ord. No. 1857/96, § 2, 7-26-96; Ord. No. 3007/16, § 1, 5/24/2016)

Editor's note: Ord. No. 1382/78, § 1, enacted Sept. 5, 1978, adopted provisions designated as § 22-27, which the editor has redesignated § 22-3 for purposes of classification.

Sec. 22-4. Fees for accident reports and other police records.

Any person applying in person or by mail for a copy or copies of police accident reports or other records available to the public from the police department shall pay a fee of twenty-five cents ($0.25) per page, or the actual cost of reproducing a record; and if such copies are requested to be certified by the city, then a charge of twenty dollars ($20.00) shall be added. All such fees shall be paid by cash, money order, bank cashier's check or certified check, and shall be turned over to the city comptroller's office by the police department.

(Ord. No. 1659/88, § 1, 4-5-88; Ord. No. 1857/96, § 3, 7-26-96; Ord. No. 1931/00, § 1, 5-2-00)

Sec. 22-5. Fees for fingerprinting individuals for licensing purposes.

Any person applying to the police department to be fingerprinted shall pay a fee of twenty dollars ($20.00) for each set of prints processed. Such fee shall be paid at the time of processing by cash, money order, bank check or certified check, and shall be turned over to the city's comptroller's office by the police department.

(Ord. No. 1936/00, § 1, 11-8-00)

Secs. 22-6--22-16. Reserved.

ARTICLE II. CUSTODY OF PERSONAL PROPERTY*

***Cross references:** Abandoned property on public ways, § 23-36 et seq.

Sec. 22-17. Property clerk generally.

The police commissioner shall designate a member of the police department as property clerk, who shall take charge of property and money subject to this article.

(Code 1957, § 3-601)

Sec. 22-18. Report of finding valuable property.

Any person who finds any article of value, such as jewelry or money, shall report the finding of the article to the police department within ten (10) days after the finding thereof.

(Code 1957, § 3-602)

Sec. 22-19. Custody of lost, abandoned or unclaimed property.

(a) Each lost, abandoned or unclaimed article of personal property within the city shall be placed in the custody and charge of the property clerk of the police department, who shall be the custodian thereof.

(b) All lost, abandoned or unclaimed articles of personal property in the city that shall remain in the custody of the property clerk for a period of three (3) months without a lawful claimant entitled thereto, shall, in the case of moneys, be paid into the city treasury, and in the case of property, be sold at public auction as prescribed in this article.

(Code 1957, §§ 3-603, 3-603.1)

Sec. 22-20. Return of lost, abandoned or unclaimed articles to the finder.

A finder of personal property who shall have deposited any lost, abandoned or unclaimed article of personal property with the police department, shall be entitled to the return of the article of personal property deposited with the police department, after the expiration of the three-month period, where a true owner has not appeared to claim the article.

(Code 1957, § 3-606)

Sec. 22-21. Other property and money which shall be turned over to the property clerk.

The following property or money which shall come into the possession of any member of the police department or the criminal court shall be turned over to the property clerk as soon as practicable, and shall be held by the property clerk: All property or money taken from the person or possession of a prisoner; all property or money suspected of having been unlawfully obtained or stolen or embezzled or of being the proceeds of crime or derived through crime or derived through the conversion of unlawfully acquired property or money or derived through the use or sale of property prohibited by law from being held, used or sold; all property or money suspected of having been used as a means of committing crime or employed in aid or in furtherance of crime or held, used or sold in violation of law; all money or property suspected of being the proceeds of or derived through bookmaking, policy, common gambling, keeping a gambling place or device, or any other form of illegal gambling activity and all property or money employed in or in connection with or in furtherance of any such gambling activity; all property or money taken by the police as evidence in a criminal investigation or proceeding; all property or money taken from or surrendered by a pawnbroker on suspicion of being the proceeds of crime or of having been unlawfully obtained, held or used by the person who deposited the same with the pawnbroker; all property or money which is lost or abandoned; all property or money left uncared for upon a public street, public building or public place; all property or money taken from the possession of a person appearing to be insane, intoxicated or otherwise incapable of taking care of himself.

(Code 1957, § 3-601.1)

Sec. 22-22. Record of property or money.

All property and money over which the property clerk has custody shall be described and registered by the property clerk in a record kept for that purpose, which shall contain a description of the property or money; the name and address of the owner or claimant, if ascertained; the date and place where the property or money was obtained or found; the name and address of the person from whom the property or

money was taken or obtained, with the general circumstances; the name of the officer by whom the property or money was recovered or obtained; the date when the property or money was received by the property clerk; the names and addresses of all claimants thereto; and any final disposition of the property or money.

(Code 1957, § 3-601.2)

Sec. 22-23. Authority of the property clerk to administer oaths and take affidavits with respect to claims.

The property clerk shall have power to administer oaths to and take affidavits and depositions of any person or claimant in all matters pertaining to the powers and duties of the property clerk, and property and money in his custody and claims thereto.

(Code 1957, § 3-601.3)

Sec. 22-24. When property or money may be returned to an accused person.

Whenever property or money taken from any person arrested shall be alleged to have been feloniously obtained, or to be the proceeds of crime, and brought, with all ascertained claimants thereof, and the person arrested, before a judge for adjudication, and the judge shall be satisfied from the evidence that the person arrested is innocent of the offense alleged, and that the property rightfully belongs to him, then the judge thereupon, in writing, may order the property or money to be returned, and the property clerk, if he has it, to deliver the property or money to the accused person himself, and not to any attorney, agent or clerk of the accused person.

(Code 1957, § 3-601.4)

Sec. 22-25. Property clerk to retain property or money where ownership is disputed.

If any claim to the ownership of any property or money in the custody of the property clerk shall be made on oath before a judge, by or in behalf of any other persons than the person arrested, and the accused person shall be held for trial or examination, the property or money shall remain in the custody of the property clerk until the discharge or conviction of the person accused and until lawfully disposed of.

(Code 1957, § 3-601.5)

Sec. 22-26. Sale of lost, abandoned or unclaimed property.

(a) The property clerk, from time to time, shall cause to be published in the official newspaper of the city, a complete list of lost, abandoned or unclaimed articles then in his possession, giving the best possible description of each article and giving notice that on or before noon of a date fixed by him, which day shall not be less than twenty (20) days from the first such publication, he will deliver the lost, abandoned or unclaimed articles to the respective persons showing themselves satisfactorily to be the owners of, or entitled to the articles, and upon the payment of the necessary expense in connection with the custody thereof and the proportionate share of the cost of the advertisement.

(b) At any time after the expiration of the time for the redemption of any lost, abandoned or unclaimed article, the property clerk may proceed to sell it for cash at public auction, to the highest bidder, in his office in the police department, upon giving at least ten (10) days' notice by publication in the official newspaper, of the place, day and hour of the sale, and by posting the notice in at least three (3) public places in the city, and by giving such other and further notice as to him shall be deemed desirable. More than one lost, abandoned or unclaimed article may be sold by the sale, but each article shall be sold separately.

(c) The proceeds arising from a sale held pursuant to subsection (b), after the payment of the cost of the custody of the lost, abandoned or unclaimed article, and the cost of the advertisements or publications made pursuant to this section and the proportionate cost of conducting the sale, shall be paid into the city treasury.

(d) The property clerk shall report to the city manager any items of lost, abandoned or unclaimed property remaining unsold after a public auction held pursuant to this section, which property is in the possession of the police department, and the city manager shall make such disposition of the property as he may see fit in the public interest.

(Code 1957, §§ 3-604--3-605.1, 3-607)

Secs. 22-27--22-29. Reserved.

ARTICLE III. AUTOMATIC ALARM SYSTEMS

Sec. 22-30. Legislative intent.

It is the intent of the city council in enacting this article to safeguard and protect the residents of Long Beach and the facilities of the police department by regulating transmissions from automatic voice-graded taped alarm systems to police emergency numbers. This article seeks to ensure that police emergency switchboards will be available to dispatch police equipment and personnel for actual emergencies and reduce false alarms. In addition, this article is intended to alleviate the nuisance of audible alarms to the surrounding community by identifying and locating responsible persons to silence alarm systems which have been activated.

(Ord. No. 1695/89, § 1, 5-2-89)

Sec. 22-31. Definitions.

As used in this article, the term:

(a) *Alarm system* shall mean any alarm device which automatically dials the emergency telephone number of the police and uses pre-taped or pre-recorded messages to alert the police that an emergency exists or that the services of that department are needed. "Alarm system" shall also mean any alarm device which automatically emits an audible, visual, or other similar response upon the occurrence of any hazard or emergency, and is intended to alert persons outside the building to the existence of said hazard or emergency. An alarm system as defined in this section shall not include fire alarms for the purposes of this article,

but shall include alarm signals transmitted to privately operated central stations.

(b) *Police emergency number* shall mean any telephone number designated by the commissioner of police as a telephone number through which members of the public may report an emergency or request police assistance.

(c) *False alarm* shall mean an alarm which signals the police needlessly or erroneously and is not cancelled by the resident before a police officer arrives at the residence. The owner and/or occupant of premises having an alarm system shall be responsible for any and all false alarms to the police which are caused by either the wilful or negligent act or acts of such owner or occupant, or his employees or agents. Negligent acts shall include improper maintenance and insufficient instructions to tenants, employees, agents, children, or others concerned with the operation of the system and all inadvertent alarm signals by individuals or animals.

(Ord. No. 1695/89, § 1, 5-2-89; Ord. No. 1717/90, § 1, 3-20-90)

Sec. 22-32. Automatic dialing devices.

No one shall use, operate or install any device that will, upon activation by automatic means, initiate the dialing, calling, or other connection with the Long Beach Police Department to a telephone number other than the number designated for that purpose by the commissioner of police.

(Ord. No. 1695/89, § 1, 5-2-89)

Sec. 22-33. Mandatory delay.

Upon the activation of a burglary (break-in) alarm, there shall be a mandatory delay of at least thirty (30) seconds before the transmission of a signal to the police department to enable the owner or occupant to abort the signal in the event that it was triggered inadvertently. This delay shall not be applicable to a robbery, (hold-up), fire, or medical emergency alarm. Any system installed on or after the effective date of this article shall comply with this section upon installation. Pre-existing systems shall comply within six (6) months after the effective date of this article.

(Ord. No. 1695/89, § 1, 5-2-89)

Sec. 22-34. Timing device.

The owner or occupant of premises having an alarm system emitting an audible, visual, or other similar response shall, at the time such system is installed, or within six (6) months after the effective date of this article in the case of existing systems, install or cause to be installed an automatic timing device which shall deactivate every such alarm that has been activated for thirty (30) minutes or less.

(Ord. No. 1695/89, § 1, 5-2-89)

Sec. 22-35. Limitations of automatic dialing devices.

No person shall use, operate or install any device that will, upon activation, automatically dial, call, or connect with the telephone number designated by the

commissioner of police for the purpose of receiving such alarm messages more than twice for any one incident. Any system installed on or after the effective date of this article shall comply with this section. Pre-existing installations shall comply with this section within six (6) months after the effective date of this article.

(Ord. No. 1695/89, § 1, 5-2-89)

Sec. 22-36. Filing requirements.

The owner or person responsible for every alarm system maintained in the City of Long Beach, except those installed in motor vehicles, shall within ten (10) days after the installation thereof, or within sixty (60) days after the enactment of this article in the case of existing systems, file the following information with the Long Beach Police Department:

(1) Type of alarm system.

(2) Street address and the nearest cross street of the building which houses the alarm system.

(3) In the case of commercial premises, the name, address, and telephone number of an authorized representative and/or an alternate who will be able to respond when called by the police to deactivate the alarm system, if necessary.

(Ord. No. 1695/89, § 1, 5-2-89)

Sec. 22-37. Installation and maintenance.

(a) An alarm system may be installed and/or serviced only by a duly licensed person or company holding a valid license.

(b) The city police department shall issue an alarm sticker to the owner or occupant of each premises in which an alarm system has been installed, provided that such owner or occupant has complied with all the requirements of this article, and that the permit for such alarm system has not been revoked or rescinded. Such owner or occupant shall display such alarm sticker on the front door of the premises for which it was issued at all times that such permit is valid and effective, and shall promptly remove and destroy such sticker if and when such permit shall expire or be revoked.

(Ord. No. 1695/89, § 1, 5-2-89; Ord. No. 1736/90, § 1, 11-20-90; Ord. No. 1822/94, § 1, 11-1-94; Ord. No. 2003/05, § 1, 5-3-05); Ord. No. 2072/12, § 1, 7-5-2012)

Sec. 22-38. Fees.

(a) Each applicant for an alarm installer's mercantile license shall pay to the appropriate agency of the State of New York by postal money order the required fee for the search and report on his fingerprints.

(b) Each new applicant for a permit to install and maintain an automatic alarm system for a residential property shall pay to the city a fee of seventy-five dollars

($75.00) for said permit, valid for one (1) year.

(c) Each new applicant for a permit to install and maintain an automatic alarm system for a commercial property shall pay to the city a fee of one hundred fifty dollars ($150.00) for said permit, valid for one (1) year.Permits are to be renewed every year at said rate.

(d) Residential properties with existing permits shall pay to the city a fee of fifty dollars ($50.00) for said permit, valid for one (1) year. Commercial properties with existing permits shall pay to the City a fee of one hundred dollars ($100.00), valid for one (1) year. Permits are to be renewed every year at said rate.

(Ord. No. 1695/89, § 1, 5-2-89); Ord. No. 2072/12, § 1, 7-5-2012; Ord. No. 3068/22, 9-20-2022)

Sec. 22-39. False Alarm Notifications and Penalties.

(a) The holder of an alarm permit or the person in control of an alarm system shall be subject to warnings, penalties and suspension or revocation of an alarm permit contingent upon the number of false alarm notifications transmitted from an alarm system within any one (1) calendar year, in accordance with the following graduate penalty schedule for each occurrence. More than one false alarm notification in any one day shall be counted as one (1) occurrence.

Residential / Permit Holder:

False Alarm:	Penalty:
1st	Warning
2nd	$50.00
3rd	$100.00
4th	$125.00
5th	$150.00
6th	$175.00
7th	$200.00
8th	$225.00
9th	$250.00
10th or More	$275.00

Residential / Non-Permit Holder:

False Alarm:	Penalty:
1st	$100.00
2nd	$125.00
3rd	$150.00
4th	$200.00
5th	$250.00
6th	$300.00
7th	$350.00
8th	$400.00
9th	$450.00
10thor More	$500.00

Commercial / Permit Holder:

False Alarm:	Penalty:
1st	Warning
2nd	$100.00
3rd	$150.00
4th	$200.00
5th	$250.00
6th	$300.00
7th	$350.00
8th	$400.00
9th	$450.00
10th or More	$500.00

Commercial / Non-Permit Holder:

False Alarm:	Penalty:
1st	$200.00
2nd	$250.00
3rd	$300.00
4th	$350.00
5th	$400.00
6th	$500.00
7th	$600.00
8th	$700.00
9th	$750.00
10thor More	$800.00

(b) Newly installed alarm systems shall not be subject to false alarm notifications

during the first ninety (90) days immediately following the completion of installation, subject to a maximum of three (3) false alarm notifications and provided that an alarm permit has been issued by the Police Department.

(c) All residential alarm notifications must include an attempted telephone notification with two (2) calls back to the residence or secondary number by the privately operated central station before the Police Department is notified.

(d) Any location/premises that fails to pay any fee or fine set forth in this chapter shall be issued a letter of warning prescribing a date certain that any outstanding fees or fines must be paid by the permit holder. Any location/premises that fails to pay such fees and/or fines timely, as prescribed in the letter of warning, may be subject to permit revocation, pursuant to Section 22-40, at the sole discretion of the Police Commissioner.

(Ord. No. 1695/89, § 1, 5-2-89; Ord. No. 1716/90, § 1, 3-6-90; Ord. No. 1736/90, § 2, 11-20-90; Ord. No. 1822/94, § 2, 11-1-94; Ord. No. 2003/05, § 1, 5-3-05); Ord. No. 2072/12, § 1, 7-5-2012; Ord. No. 3068/22, 9-20-2022)

Sec. 22-40. Revocation and reissuance of permit.

(a) The Police Department may revoke an alarm permit if it determines that:

(1) There is a false statement made in the application for a permit; or

(2) The permit holder has violated any provision of this Article; or

(3) The permit holder has failed to make timely payments of any penalty fee pursuant to Section 22-39 within thirty (30) business days of receiving notice of said penalty fee; or

(4) A permit paid by an applicant by check is dishonored; or

(5) There are ten (10) or more false alarm activations in any twelve (12) month period and satisfactory documentation of repair of the alarm system has not been submitted; or

(6) The location/premises creates persistent false alarms. Persistent false alarms means ten (10) or more false alarms in any twelve (12) month period or five (5) false alarms in any thirty (30) day period.

(b) A permit holder whose alarm permit for a particular location/premises has been revoked may be issued a new permit only if that person:

(1) Submits an updated permit application and pays a permit reinstatement fee of one hundred dollars ($100.00) for residential premises or two hundred dollars ($200.00) for commercial premises; and

(2) Any permit that has been revoked for any reason, must pay the reinstatement fee prior to a permit being issued; and

(3) Pays or otherwise disposes of all penalties issued to the person pursuant to this Article; and

(4) Submits proof that the alarm system has been inspected and properly

maintained.

(c) A permit holder whose alarm permit has been revoked at any location may not be issued an alarm permit for any other location unless and until they have fulfilled the requirements of subsections (b)(1) through (b)(4) above.

(Ord. No. 1695/89, § 1, 5-2-89; Ord. No. 2003/05, § 1, 5-3-05); Ord. No. 2072/12, § 1, 7-5-2012; Ord. No. 3068/22, 9-20-2022)

Sec. 22-41. Opportunity to be heard upon permit denial or revocation.

A person whose alarm permit application has been denied in accordance with this title or a person whose alarm permit has been revoked in accordance with the provisions of Section 22-40 may request reconsideration of the Police Department's determination. Such request must be made within fifteen (15) calendar days of the denial or revocation and submitted in writing to the attention of the Commissioner of Police, who shall then consider all information submitted and make a final determination as soon as practicable.

(Ord. No. 3068/22, 9-20-2022)

Sec. 22-42. Penalties and fines.

Any person operating an alarm system without a permit and who does not apply for an alarm permit within thirty (30) days after a false alarm notification shall be subject to a penalty fee as provided for in subsection (a) of Section 22-39. Any person operating an alarm system without a permit due to a prior revocation and who has not applied for a new alarm permit shall be subject to a penalty fee as provided for in section 22-39 as a non-permit holder. Any penalty assessed pursuant to this subdivision shall be payable to the City of Long Beach.

(Ord. No. 3068/22, 9-20-2022)

Sec 22-43. Reserved.

ARTICLE IV. DISSEMINATION OF INFORMATION CONCERNING SEX OFFENDERS

Sec. 22-44. Legislative intent.

(a) The city council finds that sex offenders are prone to recidivism. The Long Beach community has an interest in protecting vulnerable populations from sex offenders who may relapse into criminal behavior. This public interest can best be served by disseminating information about such offenders to groups or entities that are made up of residents, be they children, seniors, women or others who are vulnerable to victimization by sex offenders. The New York State Sex Offender Registration Act ("SORA") provides for the registration of convicted sex offenders and the release of certain information about then by local law enforcement agencies. While this law is an invaluable tool for informing the public about the presence of certain convicted sex offenders in their communities, this council finds that it can be made more effective by having the Long Beach Police

Department notify entities with vulnerable populations about such offenders residing in their vicinity. This article is therefore necessary to ensure the widest possible dissemination of information about level 2 and level 3 sex offenders consistent with SORA.

(b) The city council further finds that level 2 and level 3 sex offenders present a particular danger when they live in close proximity to schools, school bus stops, parks, recreation centers and facilities, community centers, businesses whose primary function is to provide goods and services to vulnerable populations, and areas where children learn, play and congregate. The city's compelling governmental interest in ensuring that children and those of a vulnerable population do not become victims of sex crimes is best served by limiting the occasions for contact between vulnerable populations and registered sex offenders, and the residency restriction contained in this article is therefore necessary to protect vulnerable populations from sex offenders who may relapse into criminal behavior.

(Ord. No. 2011/06, § 1, 12-19-06)

Sec. 22-45. Definitions.

As used in this article, the term:

(a) *Entity with a vulnerable population* shall mean any community group, organization, association or other organized collection of people whose members are potential targets of a sex offender.

(b) *Commissioner* shall mean the Commissioner of Police of the City of Long Beach, as defined by sections 44 and 48 of the Charter of the City of Long Beach.

(c) *Level 1 offender* shall mean a sex offender determined by the New York State board of examiners of sex offenders to pose a low risk of recidivism.

(d) *Level 2 offender* shall mean a sex offender determined by the New York State board of examiners of sex offenders to pose a moderate risk of recidivism.

(e) *Level 3 offender* shall mean a sex offender determined by the New York State board of examiners of sex offenders to pose a high risk of recidivism.

(f) *Park* shall mean any park, preserve, playground, athletic field, golf course, swimming pool or beach operated by the City of Long Beach, the Long Beach City School District, the County of Nassau, the Town of Hempstead or the State of New York, including but not limited to the Ocean Beach Park, as defined by section 18-13 of this Code, James J. McCabe Jr., Memorial Park, as defined by section 18-80 of this Code, the Waterfront Park, a/k/a Veteran's Park, and Skate Park located at Reynolds Channel between Magnolia Blvd and National Blvd., and the parks, playgrounds and recreation areas described in section 18-88(b) and 18-100 of this Code, which includes:

(1) Kennedy Plaza, bordered by West Park Avenue, National Boulevard, West Chester Street and Centre Street;

(2) Clark Street Playground, located at Clark Street near Reynolds Channel;

(3) Municipal Fishing Pier, located at the foot of Magnolia Boulevard, and Reynolds Channel;

(4) George B. Costigan Recreation Fields, located between Magnolia and National Boulevards, Water Street to West Pine Street;

(5) Playground at Pacific Boulevard/Shore Road;

(6) Playground at North Park Place/East Pine Street;

(7) Playground at Magnolia Boulevard/West Broadway;

(8) Playground at Georgia Avenue/West Beech Street;

(9) Long Beach Roller Hockey Rink, located between Reynolds Channel and George B. Costigan Recreation Fields; and

(10) Municipal Indoor Swimming Pool at Magnolia Boulevard and Water Street.

(g) *Playground* means the playgrounds described in subparagraph (f) of this section, as well as any outdoor premises or grounds owned or lawfully operated by or on behalf of, the city, the city school district, or any public, private or parochial school, any child day care center or any youth center, which contains any device, structure or implement, fixed or portable, used or intended to be used by persons under the age of eighteen for recreational or athletic purposes including, but not limited to, play equipment such as a sliding board, swing, jungle gym, sandbox, climbing bar, wading pool, obstacle course, swimming pool, see-saw, baseball diamond, athletic field, ice skating rink or basketball court.

(h) (1) *School* shall mean a public, private or parochial elementary or secondary school, including a middle school, junior high school, high school or Board of Cooperative Educational Services (BOCES) school, but not including a college, university, a privately owned trade/vocational school or a home school.

(2) *School bus stop* shall mean any location where children are regularly picked up and transported to a school by either a public or private school busing company.

(i) *Registered sex offender* shall mean a person who has been classified as a level 1, level 2 or level 3 sex offender and who is required to register with the New York State Division of Criminal Justice Services ("DCJS"), or other agency having jurisdiction, pursuant to the provisions of article 6-C of SORA, whether or not the sex offender has actually registered in compliance with the law or order of a court of competent jurisdiction.

(j) *Residence* shall mean the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

(k) *SORA* shall mean the New York State Sex Offenders Registration Act.

(l) *Domicile* shall mean a person's true, fixed, permanent home or fixed

place of habitation.

(m) *County* shall mean the County of Nassau.

(n) *City* means the City of Long Beach, New York.

(o) *Business catering to a vulnerable population* shall include any businesses whose primary function and business purpose is to provide goods and/or services to children and those of a vulnerable population.

(p) *Child day care, child day care provider, day care center* and *day care home* shall have the same meaning as provided in section 390 of the New York State Social Service Law.

(Ord. No. 2011/06, § 1, 12-19-06)

Sec. 22-46. Mandatory dissemination of information.

(a) *Level 2 offenders.* Upon receiving notification as a law enforcement agency having jurisdiction, as defined in subdivision 4 of section 168-a of the Correction Law of New York, pursuant to subparagraph (b) of subdivision 6 of section 168-I of such law, the commissioner shall immediately disseminate relevant information which may include a photograph and description of the offender, such offender's name, approximate address based on zip code, background information including the offender's crime of conviction, modus of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides and the description of special conditions imposed on the offender to those entities which in his determination have vulnerable populations related to the nature of the offense committed by such sex offender.

(b) *Level 3 offenders.* Upon receiving as a law enforcement agency having jurisdiction, as defined in subdivision 4 of section 168-a of the Correction Law of New York, pursuant to subparagraph (c) of subdivision 6 of section 168-I of such law, the commissioner shall immediately disseminate relevant information which may include a photograph and description of the offender, such offender's name, exact address, address of the offender's place of employment, background information including the offender's crime of conviction, modus of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides and the description of special conditions imposed on the offender to those entities which in his determination have vulnerable populations related to the nature of the offense committed by such sex offender.

(Ord. No. 2011/06, § 1, 12-19-06)

Sec. 22-47. Promulgation of rules and procedures.

The commissioner shall promulgate rules and procedures mandating the widest possible dissemination of information regarding level 2 and level 3 offenders to entities with vulnerable populations as required by section 22-46 of this Code. Such rules may provide for such dissemination to entities by means of electronic mail or such other methods of notification as may be deemed effective by the Commissioner, including but not limited to facsimile transmission, regular mail, and door-to-door notification by

members of the Long Beach Police Department.

(Ord. No. 2011/06, § 1, 12-19-06)

Sec. 22-48. Database of entities with vulnerable population.

(a) The Commissioner shall establish and maintain a database categorizing the city's vulnerable populations in relation to the nature of the offenses for which a sex offender must register under section 169 et seq. of the Correction Law, as well as the local entities in the city having or providing services to such categories of vulnerable populations, which may include, but shall not be limited to, public and private schools, child day care centers, senior care centers, senior community centers, camps, organizations which serve primarily children, women or vulnerable adults, and community groups located in an area where a sex offender resides, expects to reside or is regularly found. In addition, upon written request of an entity in the form and manner established by the commissioner, there shall be included in such database any entity which upon a review by the commissioner, in his or her sole discretion, is determined to be an entity with a vulnerable population.

(b) All facilities providing for child care services, in a day care center, family day care home or group family day care home, as such terms are defined in section 390 of the New York State Social Service Law, in the city shall be subject to the condition that said providers register with the commissioner in accordance with this section.

(Ord. No. 2011/06, § 1, 12-19-06)

Sec. 22-49. Residency restrictions.

It shall be unlawful for any registered sex offender to establish a residence or domicile where the property line of such residence or domicile lies within one thousand (1,000) feet of the property line of a school and five hundred (500) feet of the property line of a park, playground, recreation center, recreation facility, community center, day care center or day care home, business which primarily functions to provide goods and services to vulnerable populations and school bus stop.

(Ord. No. 2011/06, § 1, 12-19-06)

Sec. 22-50. Notification and enforcement.

(a) Each registered sex offender residing within the city shall be personally notified in writing by the commissioner or his/her designee of the prohibitions applicable to such offender under this article.

(b) Any registered sex offender who establishes a residence or domicile prohibited by this article shall permanently relocate such residence or domicile within sixty (60) days following receipt of written notice pursuant to subdivision (a) of this section. Failure to provide proof to the commissioner of relocation of such residence or domicile within thirty (30) days to one that is permitted, shall constitute a violation of section 22-49. In the event that the registered sex offender fails, refuses and/or neglects to relocate or otherwise does not cease using the location as his/her place of residence or domicile, then he/she shall be

deemed to have committed an offense and shall be liable for such violation and the penalty therefore. The city shall be authorized to commence a proceeding or action in the appropriate court of law for such relief as necessary in order to obtain compliance with this article.

(Ord. No. 2011/06, § 1, 12-19-06)

Sec. 22-51. Exemption.

The residency restriction of section 22-49 shall not apply to registered sex offenders who have established residences or domiciles prior to the effective date of this article; or to registered sex offenders under the age of eighteen (18) years of age residing with his/her parent(s).

(Ord. No. 2011/06, § 1, 12-19-06)

Sec. 22-52. Penalties.

Any violation of section 22-49 after notification pursuant to section 22-50 shall constitute a violation punishable by a fine which shall not exceed one thousand dollars ($1,000.00), or imprisonment not exceeding fifteen (15) days or a combination of such fine and imprisonment as shall be fixed by the court.

(Ord. No. 2011/06, § 1, 12-19-06)

Sec. 22-53. City not liable.

Nothing in this article shall be deemed to impose any civil or criminal liability upon, or give rise to a cause of action against, the City of Long Beach or to any official, employee or department of the city for failing to act in accordance with this title.

(Ord. No. 2011/06, § 1, 12-19-06)

Chapter 23 STREETS, SIDEWALKS AND PUBLIC WAYS*

***Charter references:** Authority to construct public works, § 79; special assessment procedure, § 80 et seq.; maintenance and repair of sidewalks, § 256 et seq.

Related acts reference--Arterial highways, § 10 et seq.

Cross references: Municipal bulkheads, § 6-67 et seq.; construction excavations, § 7-161 et seq.; fences, § 7-176 et seq.; roll-off containers and dumpsters, § 7-240 et seq.; parades and processions, § 15-133 et seq.; excavations of sand, topsoil and other earthen materials, § 17-1.

Art. I. In General, §§ 23-1--23-18
Art. II. Excavations and Alteration of Grades, §§ 23-19--23-35
Art. III. Abandonment of Property on Public Ways, §§ 23-36--23-45

ARTICLE I. IN GENERAL

Sec. 23-1. Riding bicycles and tricycles on sidewalks.

(a) No person shall ride a bicycle or tricycle upon a sidewalk within a business district.

(b) No person ten (10) or more years of age shall ride a bicycle or tricycle upon any sidewalk in any district.

(c) Any person violating any of the provisions of this section shall be liable for each offense to a fine of not less than two dollars ($2.00) nor more than two hundred fifty dollars ($250.00), or imprisonment for not more than fifteen (15) days, or both.

(Code 1957, § 8-129; Ord. No. 938, § 1, 10-7-69; Ord. No. 1064/74, § 1, 7-6-71; Ord. No. 1217/74, § 1, 4-2-74)

Sec. 23-2. Horseback riding instructions in public places.

The use of the streets or public places of the city for the purpose of giving instructions in horseback riding is hereby prohibited. Any person violating this section shall be guilty of a violation and shall be liable to a fine of not less than five dollars ($5.00) or not more than twenty-five dollars ($25.00) for each offense.

(Code 1957, § 6-211)

Sec. 23-3. Obstruction of streets.

It shall be unlawful for any person to obstruct any street, alley, sidewalk or public square, by allowing any wagon, cart, vehicle, merchandise, stand, garbage, debris, wood, sand, ashes, snow, ice, coal, coke, brick, stone or any encumbrance whatever to remain on such street, alley, sidewalk or public square for more than four (4) hours.

(Code 1957, § 6-212)

Cross references: Responsibility for good order, § 14-287.

Sec. 23-4. Encroachments.

It shall be unlawful to erect, build or maintain any wall, fence, building, courtyard or area, show window or showcase which projects over the building line or is upon any street or boardwalk within the city. In addition to prosecution for violation of this section, the building commissioner shall cause the removal of the encroachment if the owner of the premises fails to do so after ten (10) days' written notice and the cost of such removal shall be a charge against the property, collectible in the same manner as taxes.

(Code 1957, § 6-214)

Sec. 23-5. Sales on public ways.

It shall be unlawful to sell at public auction or otherwise, except officers of the law, any goods, wares and merchandise on the streets and sidewalks.

(Code 1957, § 6-213)

Cross references: Responsibility for good order, § 14-287.

Sec. 23-6. Throwing missiles or playing ball.

It shall be unlawful to throw any stone, brick or missile on any street in the city or to play ball in or on any street or beach in the city except in such areas as are set aside by the recreation commission for such purposes.

(Code 1957, § 6-215)

Sec. 23-7. Duty of merchants and others to keep sidewalks, curbs and gutters clean.

(a) The sidewalks and curbs, or boardwalk adjacent to and abutting upon each and every commercial, mercantile, business or other establishment in the city shall be kept clean and clear of any trash, refuse or other debris by the owner, operator or licensee of each such establishment. Each owner, operator or licensee of a commercial, mercantile, business or other establishment shall sweep such sidewalk and curb, or boardwalk, and also the gutter and street area adjacent to the curb to a distance of at least eighteen (18) inches from the curb, before 10:00 a.m. each day that such business or establishment is open or operated. All sweepings and other debris shall be collected and removed to private containers by such owner, operator or licensee.

(b) In commercial areas, it shall be unlawful to place any garbage, refuse or ashes upon the sidewalk or street for collection, or to permit such material or containers to remain upon the street EXCEPT during the following collection time periods only: 5:30 a.m. to 7:30 a.m. and 9:30 a.m. to 11:30 a.m..

(c) Each person violating any provision of this section shall be guilty of a violation punishable by a fine of not more than two hundred fifty dollars ($250.00), or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment for each such violation.

(d) Each owner or owners of every parcel of commercial real property located within the business districts along Park Avenue and West Beech Street shall be charged fifteen dollars ($15) per front foot of real property owned, to provide for the maintenance and cleaning of the sidewalks and gutters by the City, to keep those business districts free from litter, trash and other debris.

(Code 1957, § 6-216; Ord. No. 1432/80, § 1, 10-21-80; Ord. No. 1570/85, § 1, 8-6-85); Ord. No. 2074/12, § 1, 8-21-2012; Ord. No. 3004/16, § 1 ,5/17/2016)

Sec. 23-8. Duty of property owners and others to keep sidewalks, curbs and gutters clean.

(a) The sidewalks and curbs, abutting or in front of every building or lot in residential areas of the city, shall be kept clean and clear of any litter, garbage, trash, refuse or other debris, except in proper containers and at proper times for collection, by the owner, tenant, occupant or person in charge of each such building or lot.

(b) No such owner, tenant, occupant or person in charge of any building or lot, and no gardener/landscaper or any employee or other person shall use a power sweeper or blower to clean any sidewalk, curb, gutter or street area unless all sweepings and debris are collected and removed from such areas immediately

after using such power sweeper or blower.

(c) Any person violating any provision of this section shall be guilty of a violation punishable by a fine of not less than fifty dollars ($50.00) nor more than two hundred fifty dollars ($250.00) for the first offense, and not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for each subsequent offense, or by imprisonment for not more than ten (10) days, or by both such fine and imprisonment.

(Ord. No. 1432/80, § 2, 10-21-80; Ord. No. 1826/94, § 1, 11-15-94; Ord. No. 1910/99, § 1, 3-16-99)

Sec. 23-9. Obstructing free passage.

(a) No person, after first being warned by a law enforcement officer, or where a sign or signs have been posted giving notice thereof, shall loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, street, curb, crosswalk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians thereon; nor shall any person block or obstruct, or prevent the free access to the entrance to any building open to the public.

(b) Any person who shall violate any of the provisions of subsection (a) shall be guilty of a violation and shall be liable for each such offense to a fine not to exceed two hundred fifty dollars ($250.00) or imprisonment for not more than fifteen (15) days, or both such fine and imprisonment.

(c) Nothing in this section shall be construed to prevent the orderly gathering of persons authorized to do so by a permit duly issued by the city clerk, city council, city manager or other lawful authorities of the city in such location set forth in said permit.

(Ord. No. 1531/84, § 1, 2-21-84)

Editor's note: Section 23-9, relative to unlawful congregation was repealed by § 1 of Ord. No. 1531/84, enacted February 21, 1984. Said section derived from Code 1957, § 6-201. Further, § 1 of Ord. No. 1531/84 enacted a new § 23-9 as set out above.

Sec. 23-10. Use of bulkheads, bridges and adjacent public property.

(a) It shall be unlawful for any person or persons to use any bulkhead or bridge within the city, or any public property adjacent thereto for fishing, picnicking, storing or keeping of any personal property, playing any game and/or congregating thereon for any other purpose, unless specifically authorized by the city in writing.

(b) Any person violating any provision of this section shall be guilty of a violation and shall be liable for each offense to a fine of not less than ten dollars ($10.00) nor more than one hundred dollars ($100.00), or imprisonment for not more than fifteen (15) days, or both.

(Ord. No. 1291/75, § 1, 9-16-75; Ord. No. 1615/87, § 1, 1-20-87)

Sec. 23-11. Penalty for failure to make, maintain or repair sidewalks, curbs and curbstones.

Any owner or occupant of lands fronting or abutting on any street, highway, traveled road, public land, alley or square, who shall omit to make, maintain or repair the sidewalk, curb and curbstone adjoining, fronting or abutting his land as provided and required by Section 256 and/or Section 256A of the City Charter of the City of Long Beach, shall be guilty of a violation punishable for each such violation as provided in section 1-8 of this Code. Each day such violation continues shall constitute a separate violation.

(Ord. No. 1452/81, § 1, 6-2-81)

Sec. 23-11.1. Penalty for failure to maintain street trees and foliage.

All owners of lands fronting or abutting on any public street or public way shall maintain, inspect, trim and prune all trees, shrubs and foliage located between their property line and the adjoining street. All dead, diseased, overgrown, obstructive or hazardous branches, foliage and growth shall be removed, trimmed or pruned so as to eliminate any obstruction or hazard, as required by Section 256A(3) of the City Charter of the City of Long Beach. Any landowner found to be in violation of this section shall be guilty of a violation as provided in section 1-8 of this Code. Each day such violation continues shall constitute a separate violation.

(Ord. No. 1724/90, § 1, 6-5-90)

Sec. 23-12. Depositing snow in streets.

(a) No person, firm or corporation shall deposit or cause to be deposited on any public street or highway any snow which shall or might interfere with the movement of any vehicle or vehicles on such street or highway.

(b) A violation of this section shall constitute an offense punishable by a fine not to exceed two hundred fifty dollars ($250.00), or by imprisonment for a term not to exceed fifteen (15) days, or both such fine and imprisonment.

(Ord. No. 1651/88, § 1, 1-5-88)

Secs. 23-13--23-18. Reserved.

ARTICLE II. EXCAVATIONS AND ALTERATION OF GRADES*

***Editor's note:** Ord. No. 1898/98, adopted July 7, 1998, amended the Code by repealing former Art. II, §§ 23-20--23-25, and adding a new Art. II, §§ 23-19--23-25. Former Art. II pertained to similar subject matter, and derived from the Code of 1957, §§ 6-207--6-207.4; Ord. No. 503-A, adopted June 7, 1960; Ord. No. 736, adopted December 1, 1964; Ord. No. 1136/72, adopted August 1, 1972, and Ord. No. 1758/91, adopted June 4, 1991.

Sec. 23-19. Rules and regulations.

In addition to the requirements of this article, the commissioner of public works shall issue and publish a set of rules and regulations pertaining to road openings. All permittees must comply with the rules and regulations promulgated by the commissioner of public works.

(Ord. No. 1898/98, § 1, 7-7-98)

Sec. 23-20. Permit required.

No person shall alter or disturb the grade of any street, highway or public place within the city, nor shall any person disturb the paving upon any street, highway or public place within the city, nor dig up or excavate any street or highway or perform any work on a city right-of-way, including surface and underground facilities, unless he/she shall first obtain a permit signed by the commissioner of public works or his/her designee.

(Ord. No. 1898/98, § 1, 7-7-98)

Sec. 23-21. Application for permit; issuance.

Upon application in writing filed with the commissioner of public works, stating the purpose, extent and location and nature of a proposed excavation or other disturbance of a street or highway within the city and any other additional information required by the commissioner of public works, the commissioner of public works may issue a permit thereafter.

(Ord. No. 1898/98, § 1, 7-7-98)

Sec. 23-22. Bond and insurance.

Except where otherwise provided or authorized by law, the applicant shall be required to post with the commissioner of public works a bond in the sum of ten thousand dollars ($10,000.00) or such additional sum as shall be deemed sufficient by the commissioner of public works to insure the payment of any and all of the charges or expenses of the city for restoring and/or maintaining the street, highway, pavement, curb or gutter in accordance with the requirements of the commissioner of public works. The bond must indemnify and hold harmless the city and must be effective for a minimum of two (2) years. The filing by a public service, water, light, power or telephone company of one (1) bond in the sum as hereinbefore determined, which by its terms indemnifies the city for an unlimited number of street openings shall be deemed sufficient compliance with the terms hereof. Each applicant must also file an insurance policy or certificate with the commissioner of public works insuring the city in the sum of one million dollars ($1,000,000.00) per person and two million dollars ($2,000,000.00) per occurrence for bodily (personal injury) and two hundred fifty thousand dollars ($250,000.00) per occurrence and five hundred thousand dollars ($500,000.00) aggregate for property damage liability. The owner shall provide an owner's protection liability policy in the aforementioned amount at no cost to the city, naming both the permittee and the city as insured and must contain the following protection to the city by use of this or similar type of language:

> "This policy shall defend, indemnify, protect and hold harmless the City of Long Beach, its officers, agents and employees, from and against any losses,

damages, detriments, suits, costs, and expenses arising out of or in connection with the performance of the work hereunder and caused by or resulting from the operations of (contractor's name) or his/her or any sub-contractor, or anyone directly or indirectly employed by them or either of them in connection with this permit."

The insurance shall continue in force for the full term of the permit and extent for a period of three (3) years following completion. Such evidence of insurance shall provide for ten (10) days prior notice, in writing to the city, of cancellations or modifications of such insurance, by registered or certified mail. It will also be the responsibility of the contractor to provide proof of worker's compensation insurance.

(Ord. No. 1898/98, § 1, 7-7-98)

Sec. 23-23. Permit fee.

Except where otherwise provided by law or where permits as above are granted for work done at the direction of the building commissioner or commissioner of public works, each application for such permit shall be accompanied by a minimum fee of two hundred-fifty dollars ($250.00) for each excavation, which fee shall be paid to the city.

(Ord. No. 1898/98, § 1, 7-7-98; Ord. No. 1950/02, § 1, 3-19-02; Ord. No. 1981/04, § 1, 5-4-04)

Sec. 23-24. Protection of excavations.

It shall be the duty of all persons making excavation in streets to surround them with suitable barriers or guards for the protection of persons using the streets in the daytime and, in addition thereto, with lights or flares from twilight continuously to daylight. Such barriers and lights shall conform in kind and numbers to the requirements of the commissioner of public works. Failure to provide barriers and lights conforming to the requirements of the commissioner of public works shall be prima facie evidence of a failure to provide suitable barriers or lights.

(Ord. No. 1898/98, § 1, 7-7-98)

Sec. 23-25. Protection of property.

All permits granted for city streets or highway excavation for any purpose shall be conditioned upon the adequate protection and repair, at the expense of the applicant, to the property of the city, including, but not limited to, the following: All excavations shall be back-filled properly with acceptable material, in accordance with the rules and regulations of the department of public works, and temporarily paved within a period of five (5) days after making of the excavation. Between sixty (60) and ninety (90) days after the installation of the temporary paving, patches will be removed and prepared for permanent restoration. A written notice of intent to permanently restore the excavation shall be filed with the commissioner of public works forty-eight (48) hours prior to the performance of such work, and a written notice of completion shall be filed when fully performed. Until the disturbed area is permanently restored, the permittee retains full responsibility to maintain the trench in a safe condition whereby pedestrian and vehicular traffic is neither impeded nor endangered. All permanent restoration of such excavations shall be maintained by the applicant for a period to continue until one (1) year after such

notice of completion has been given. If the excavation shall not have been temporarily restored or permanently restored as hereinabove required, then, and in either or in both events, the city shall have the right to restore the same and charge the actual cost thereof to the person, firm or corporation making said excavation. All debris, broken concrete, loose aggregate, etc. resulting from the performance of any restoration must be removed from the site of operations daily. All such material shall be removed from the city.

(Ord. No. 1898/98, § 1, 7-7-98)

Sec. 23-26. Issuance of permit to open street within five (5) years after completion of city capital construction project requiring resurfacing or reconstruction.

All persons having or proposed to install facilities in, on or over any street shall be responsible for reviewing the city's capital improvement plan. Such persons shall make provisions to do any work which requires the opening or use of any street prior to or during the construction of any capital project requiring resurfacing or reconstruction proposed in such plan for such street. No permit to use or open any street shall be issued to any person within a five-year period after the completion of the construction of a capital project set forth in such plan relating to such street requiring resurfacing or reconstruction. The commissioner of public works may issue a permit and therefore waive the requirements set forth herein upon a finding of necessity, whereby the applicant demonstrates the presence of an emergency condition or a severe hardship. Notwithstanding section 23-23 of this Code of Ordinances, the fee for each application for a permit for each excavation requested under this section shall be five hundred dollars ($500.00), which fee shall accompany the permit application and shall be paid to the city.

(Ord. No. 1886/98, § 1, 3-3-98)

Sec. 23-27. Enforcement of penalties.

Any person violating any of the provisions of this article or the rules and regulations pertaining to road openings shall be liable for the following penalties:

(a) When a contractor initiates excavation work but leaves an unsafe and/or open trench, the permittee can be fined two hundred dollars ($200.00) per day until work is resumed. This penalty will start on the following day after being notified either by telephone or in writing of such a circumstance.

(b) When city utilities are damaged due to the negligence of a contractor, the permittee will be subject to all associated costs required to make the necessary repairs. In addition, if it is determined that a proper utility mark-out was not obtained prior to initiating work, a five hundred dollar ($500.00) fine can be applied.

(c) The permittee is responsible for maintaining the temporary trench patch until such time as the permanent restoration is completed. If at any time, the permittee is contacted either by telephone or in writing by the city to correct a defect and/or unsafe condition, he/she must respond and rectify the problem within twenty-four (24) hours of notification. Failure of the permittee to respond within this time frame can result in a fine of two

hundred dollars ($200.00) per day in addition to any city costs required to make the necessary repairs.

(d) Failure to notify potential impacted resident and commercial establishments at least forty-eight (48) hours prior to initiating a roadway excavation will result in a fine of five hundred dollars ($500.00).

(e) The city requires permanent restoration activities to proceed typically within sixty (60) to ninety (90) days after the temporary patch is completed. The city acknowledges that weather restrictions may impact this action. A permittee who fails to initiate the final restoration within this time frame and has not applied and received approval for an extension, will be contacted by the city either by telephone or in writing to proceed expeditiously. If the permittee fails to initiate the work within forty-eight (48) hours of being contacted, a fine of two hundred dollars ($200.00) per day can be applied until either the restoration is performed to the satisfaction of the city or the city performs the work. If the city must undertake the restoration, the contractor will reimburse the City for all associated costs (including a fifteen (15) percent administrative fee) plus any fines cited above.

(f) Failure to notify by fax the department of public works at least forty-eight (48) hours prior to initiating the proposed excavation can result in a fine of two hundred-fifty dollars ($250.00).

(g) Failure to notify by fax the department of public works prior to or within twenty-four (24) hours of performing an emergency road excavation can result in a fine of five hundred dollars ($500.00).

(h) Failure to notify the department of public works at least forty-eight (48) hours prior to initiating final restoration activities can result in a fine of two hundred-fifty dollars ($250.00). All permanent restoration performed prior to notification will be deemed unacceptable and at the city's discretion, may have to be redone.

(i) Failure to secure a permit prior to undertaking non-emergency work can result in a one thousand dollar ($1,000.00) fine per location. The contractor will be responsible for securing a permit and adhering to all relevant restoration procedures.

(j) No future permits will be issued to a permittee who fails to pay imposed fines.

(Ord. No. 1996/05, § 1, 2-15-05)

Secs. 23-28--23-35. Reserved.

ARTICLE III. ABANDONMENT OF PROPERTY ON PUBLIC WAYS*

***Cross references:** Custody of personal property, § 22-17 et seq.

Sec. 23-27. Enforcement of penalties.

Sec. 23-36. "Street" defined.

As used in this article, "street" shall include a street, avenue, road, alley, lane, highway, boulevard, concourse, driveway, culvert, sidewalk, boardwalk or crosswalk, and every class of road, square, place or municipal parking field used by the general public, as well as any vacant lot or unimproved property abutting a street.

(Code 1957, § 3-700(a); Ord. No. 210-A, § 1, 12-3-59; Ord. No. 681, § 1, 9-10-63)

Sec. 23-37. Limitation on application of this article.

The provisions of this article shall not apply to any property which may come into the possession or custody of the police department pursuant to any other provision of this Code or other city ordinance, or any law or regulation.

(Code 1957, § 3-709; Ord. No. 210-A, § 1, 12-3-59)

Sec. 23-38. Prohibited.

It shall be unlawful for any person or his agent or employee, to leave or to suffer or permit to be left, any vehicle, cart, wagon, box, barrel, bale of merchandise or other movable property, either owned by him or in his possession, custody or control, upon any street; however, this section shall not apply to materials lawfully placed at the curbs or sides of streets for collection by the department of sanitation, nor to vehicles legally parked.

(Code 1957, § 3-701; Ord. No. 210-A, § 1, 12-3-59; Ord. No. 681, § 2, 9-10-63)

Sec. 23-39. Impoundment of property.

The commissioner of police shall remove or cause to be removed, any vehicle, cart, wagon, box, barrel, bale of merchandise or other movable property found on any street and shall take the property or cause it to be taken to property or premises of the city where it shall be held until redeemed or sold, as hereinafter provided.

(Code 1957, § 3-702; Ord. No. 210-A, § 1, 12-3-59; Ord. No. 681, § 3, 9-10-63)

Sec. 23-40. Notice to owner of property.

Whenever the commissioner of police shall receive any property containing an identification of ownership or right to possession, a notice shall be sent by ordinary mail to such person advising that such property is held by the commissioner of police and advising the amount necessary to redeem the property.

(Code 1957, § 3-704; Ord. No. 210-A, § 1, 12-3-59)

Sec. 23-41. Redemption of impounded property.

Property impounded pursuant to this article may be redeemed by the owner thereof at any time prior to the sale, dismantling, destruction or disposal thereof, and he shall be entitled to receive the property upon tendering the sum of ten dollars ($10.00) plus the sum of one dollar ($1.00) per day commencing the third day after the property is removed until the date of redemption. In addition, the person seeking to redeem such

property shall be required to pay the cost of advertising the sale thereof, if any. No property shall be delivered to a person seeking to redeem it unless proof establishing, to the satisfaction of the commissioner of police, such person's ownership or right to possession of the property is submitted. Any delivery of property impounded pursuant to this article to a person apparently entitled thereto shall be a good defense to the city against any other person claiming to be entitled to the property, but if the person to whom delivery is made is in fact not entitled thereto, the person to whom the delivery ought to have been made may recover the property with interest and costs from the person to whom the property shall have been delivered.

(Code 1957, § 3-705; Ord. No. 210-A, § 1, 12-3-59)

Sec. 23-42. Sale, disposal or destruction of unredeemed property.

(a) Where any property impounded pursuant to this article remains in the custody of the commissioner of police for a period of fifteen (15) days after its removal and with respect to which no person has presented to the commissioner of police proof establishing to his satisfaction the person's ownership or right to possession, the commissioner of police shall give public notice in the official newspaper of the city advising that at a specific place and time, not less than five (5) days after such notice is published, the property will be sold at public auction for the best price he can obtain. A general description in the notice of the property to be sold shall be sufficient. The sale shall be conducted by the commissioner of police or by any employee of the police department designated by him or by an auctioneer designated by the commissioner of police.

(b) Any inconsistent provisions contained in subsection (a) to the contrary notwithstanding, if any abandoned article, vehicle or property shall be deemed by the commissioner of police to be of a value of not more than fifty dollars ($50.00), and if no owner or claimant thereof shall appear to redeem such property within thirty (30) days after mailing of notice of its removal and of intention to destroy or dispose of the article to any owner whose name and address can be ascertained with reasonable diligence, any such article, vehicle or property shall be conclusively deemed to be of no value and to be abandoned property, and may be destroyed or otherwise disposed of, and there shall be no claim against the city or the commissioner of police by reason of any such destruction or disposition.

(Code 1957, § 3-706; Ord. No. 210-A, § 1, 12-3-59; Ord. No. 954/70, § 1, 2-3-70)

Sec. 23-43. Disposition of unsold property.

In the event that property impounded pursuant to this article shall remain unsold at public auction, the commissioner of police may re-offer the property for sale at a subsequent public auction held pursuant to this article, or he may dismantle, destroy or otherwise sell or dispose of the property. Any sale or other disposition of the property pursuant to this article shall be without liability on the part of the city to the owner of such property or other person lawfully entitled thereto or having an interest therein.

(Code 1957, § 3-707; Ord. No. 210-A, § 1, 12-3-59)

Sec. 23-44. Disposition of revenue.

Immediately after property impounded pursuant to this article is redeemed, the commissioner of police shall pay over to the city treasurer the amount received for redemption, costs and expenses of the article redeemed, together with an itemized statement thereof. Immediately after a sale or other disposition of such property the commissioner of police shall pay over to the city treasurer the proceeds of the sale or other disposition of such property with an itemized statement of the article sold, the price received, and the costs and expenses of the sale, and the city treasurer shall retain and credit the general fund with such proceeds.

(Code 1957, § 3-708; Ord. No. 210-A, § 1, 12-3-59)

Sec. 23-45. Penalty for violation of article.

Any person violating any of the provisions of this article shall be liable for a penalty not exceeding two hundred fifty dollars ($250.00), or imprisonment not exceeding fifteen (15) days, or both, for each violation, and the violations of any provisions of this article shall constitute disorderly conduct and the person so violating the provisions of this article shall be and is hereby declared a disorderly person. This penalty is in addition to any fees for redemption of impounded property or costs of sale chargeable to an owner or person entitled to possession of impounded property as provided in this article.

(Code 1957, §§ 3-602.1, 3-703; Ord. No. 210-A, § 1, 12-3-59; Ord. No. 1133/72, § 1, 7-11-72)

Chapter 24 VEHICLES FOR HIRE*

***Charter references:** Authority to license and regulate vehicles for hire, § 74.

Art. I. In General, §§ 24-1--24-16
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Div. 1. Generally, §§ 24-17--24-44
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Div. 2. Licenses, §§ 24-91--24-106
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Div. 1. Generally, §§ 24-107--24-112
Div. 2. City-Owned Buses, §§ 24-113--24-115

ARTICLE I. IN GENERAL

Sec. 24-1. Moving and storage.

(a) All applications for a license to engage in the moving and/or storage business shall be accompanied by a surety company bond to the city in the penal sum of two thousand dollars ($2,000.00), which surety company shall be duly licensed to do business in the State of New York, and which bond shall be conditioned for the due observance, during the term of the license, of the provisions of this Code and the laws of the State of New York and of the United States, regulating the moving of goods, wares and merchandise by moving vans and other vehicles, and the storage thereof.

(b) Every business licensed under this section shall keep permanent records which shall be open to inspection by the city clerk or the police department and shall include in such records a list of all articles to be transported or moved by the applicant or licensee.

(c) A receipt shall be given to the person whose goods or chattels are transported showing the place to which such articles or goods are to be stored or moved. A copy of the receipt shall remain in a properly bound book for permanent record.

(d) The liability for the safe transportation of articles or goods shall rest entirely with the licensee under this section and shall be covered under the bond provided for herein.

(e) Every application for a license under this section shall be subject to investigation.

(Code 1957, § 5-105.9; Ord. No. 1622/87, § 3, 4-21-87)

Secs. 24-2--24-16. Reserved.

ARTICLE II. TAXICABS AND CONTRACT TRANSPORTERS

DIVISION 1. GENERALLY

Sec. 24-17. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Driver shall mean a person licensed to drive a taxicab or contract transporter in the city.

Cruising shall mean the driving of a taxicab or a contract transporter on the streets, boulevards, avenues or other public places of the city in search of prospective passengers for hire. Driving a taxicab or contract transporter without any passengers on the streets, boulevards, avenues or other public places of the city shall be presumptive evidence of cruising.

Hack bureau shall mean the traffic division of the police department, to which division the duties hereinafter set forth for the hack bureau are hereby assigned.

Taxicab shall mean a motor vehicle regularly engaged in the business of carrying passengers for hire from one point in the city to another point in the city, having a seating capacity of not more than seven (7) persons inclusive of the driver, and not operated on a fixed route, except that the term "taxicab" shall not include a motor vehicle carrying persons for hire from pickup points within the city solely to points outside of the city.

Contract transporter shall mean a motor vehicle regularly engaged in the business of carrying passengers for hire from points within the city solely to destination points outside of the city but within the State of New York, other than in the operation of a bus line.

Transportation Network Company is a company as defined by Article 44-B of the New York State Vehicle and Traffic Law, as amended

(Code 1957, § 5-302; Ord. No. 845, § 1, 4-4-67; Ord. No. 1517/83, § 2, 10-18-83; Ord. No. 1537/84, § 1, 5-1-84; Ord. No. 3017/17, § 1, 9-5-17)

Sec. 24-18. Legislative findings.

It is hereby found and declared that the taxicab business and the contract transporter business in the city provides an important part of the transportation facilities of the city, and that the services rendered by those engaged in the taxicab business and the contract transporter business in the city is a matter of public concern, safety and interest. A study and survey of the taxicab business and the contract transporter business points to the conclusion that the public cannot be served properly unless taxicabs and contract transporters are regularly inspected and their operations controlled, and the said businesses themselves cannot operate in an orderly and appropriate manner without reasonable regulations. This article shall be construed to effect that result as nearly as possible.

(Code 1957, § 5-301; Ord. No. 1517/83, § 3, 10-18-83)

Sec. 24-19. Applicability of article to passenger vehicles other than taxicabs.

Vehicles regularly engaged in carrying passengers from points within the city to destination points outside of the city shall not be considered taxicabs, but shall be subject to and required to comply with all provisions of this article pertaining to the operation, maintenance, inspection and supervision of taxicabs, and shall be required to pay the fees prescribed by section 24-70 of this Code of Ordinances for the issuance of a contract transporter license.

(Code 1957, § 5-310.2; Ord. No. 845, § 2, 4-4-67; Ord. No. 1639/87, § 1, 10-20-87; Ord. No. 2048/09, § 1, 12/15/2009)

Sec. 24-20. This article inapplicable to bus systems.

Nothing in this article shall be construed to limit or restrict any person from operating and maintaining a motorbus transportation system upon regular routes and schedules upon the streets of the city if the owner or operator of the motorbuses or motor transportation system has first obtained a consent from the city and a certificate of public convenience and necessity from the public service commission of the state to maintain and operate such a transportation system.

(Code 1957, § 5-310)

Sec. 24-21. Periodic vehicle inspections.

The hack bureau shall inspect all taxicabs at least once each six (6) months. The date and result of the inspection and the name of the person making the inspection shall be recorded in the hack bureau. The fee for each vehicle inspected will be forty dollars ($40.00). If the vehicle fails inspection there will be an additional fee of sixty dollars ($60.00) for each re-inspection until such time as the vehicle passes such inspection.

(Code 1957, § 5-304; Ord. No. 1517/83, § 4, 10-18-83; Ord. No. 1944/01, § 1, 6-5-01; Ord. No. 3007/16, § 1, 5/24/2016)

Sec. 24-22. Maximum passenger capacity.

No seven (7) passenger taxicab shall at any time carry more than seven (7) passengers inclusive of the driver, and no five (5) passenger taxicab shall carry more than five (5) passengers inclusive of the driver, and in no case shall the seating capacity of any vehicle licensed pursuant to this article be exceeded by the number of passengers carried. Under no circumstances shall more than one passenger be carried in the front seat with the driver.

(Code 1957, § 5-308.1)

Sec. 24-23. Promulgation of rules and regulations.

The hack bureau is authorized to promulgate such rules and regulations as it may deem necessary for the proper conduct of the taxicab business, and to that end

may promulgate rules and regulations as to cruising, use of streets and use of equipment and such other regulations as it may deem necessary and proper.

(Code 1957, § 5-308.2)

Sec. 24-24. Improper manner of waiting for fares.

No licensed driver, while waiting for the employment of his vehicle, shall engage in any disorderly conduct or obstruct the sidewalk.

(Code 1957, § 5-308.3)

Sec. 24-25. Obligation to carry passengers.

Each person driving a vehicle licensed pursuant to this article shall not refuse or neglect to convey any orderly person, upon request, in the city unless previously engaged or unable or forbidden by the provisions of this article to do so, and shall proceed to any part of the city for the purpose of transporting any person when so requested.

(Code 1957, § 5-309.5)

Sec. 24-26. Cruising.

No driver shall cruise in search of passengers. Taxicabs may proceed to any destination from which a call has been received or to which they are directed by a passenger.

(Code 1957, § 5-308.4)

Sec. 24-27. Obstruction of traffic.

For the purpose of finding a vacant taxicab stand in which to await business, or in proceeding to a definite location, a taxicab driver or a transportation network company (TNC) driver shall proceed with the general flow of traffic and shall not obstruct traffic by slow driving or dilatory tactics and shall not for said purposes frequently drive around substantially the same blocks or area. No taxicab driver or transportation network company driver shall resort to any practice or manner of driving which unnecessarily will add to or tend to cause traffic congestion or other hazardous conditions.

(Code 1957, § 5-311.3; Ord. No. 3017/17, § 1, 9-5-17)

Sec. 24-28. Solicitation of business.

No taxicab driver shall solicit passengers on any street or taxicab stand in a loud and boisterous manner.

(Code 1957, § 5-311.2)

Sec. 24-29. Use of taxi stands.

No owner or operator of any taxicab shall occupy with his vehicle, for the purpose of securing passengers, any other place or stand on any public street or place than

those designated by the hack bureau; however, to meet special conditions of temporary duration, the hack bureau may designate additional places where taxicabs may stand while awaiting employment, but the use of such temporary stands shall be subject at all times to the order of the hack bureau. Nothing contained in this section shall be construed as prohibiting the temporary occupation of any street in the vicinity of hotels, theaters and places of public entertainment by any taxicab while actually engaged by one or more passengers; however, in such a case the vehicle and its operator shall be subject at all times to the orders of the police.

(Code 1957, § 5-311.1)

Sec. 24-30. Carrying parcels.

The driver of a taxicab may carry packages or parcels where the merchandise is accompanied by a passenger, but he shall refuse to carry packages or parcels when the contents cause the vehicle to become stained or foul smelling. Nothing in this section shall be interpreted as permitting the hiring of such vehicles for expressage purposes only.

(Code 1957, § 5-309.4)

Sec. 24-31. Lost property.

Every driver of a public taxicab immediately after the termination of any hiring or employment, shall carefully search the taxicab for any property lost or left therein, and any such property, unless sooner claimed or delivered to the owner, shall be taken to the police station and deposited with the officer in charge within twenty-four (24) hours after the finding thereof, and the officer in charge to whom the report shall be made shall write the report on paper and shall note therein brief particulars and descriptions of the property.

(Code 1957, § 5-309.8)

Sec. 24-32. Rates and fares.

(a) *Zones.* There are hereby established the following zones in the city to be used for the purpose of determining fares:

(1) Zone A: From Maple Boulevard to Neptune Boulevard.

(2) Zone B: From Neptune Boulevard to an imaginary line extended north and south from the railroad station.

(3) Zone C: From an imaginary line extended north and south from the railroad station to New York Avenue.

(4) Zone D: From New York Avenue to Nevada Avenue.

(b) *Rates.* The following schedule of rates shall govern any person owning, operating or controlling any motor vehicle or taxicab for hire or reward as a taxicab or for carrying of passengers for a fee or charge:

(1) Each passenger:

1 zone . . . $ 5.00

2 zones . . . 5.00

3 zones . . . 5.50

4 zones . . . 5.75

Senior citizen rates will be $1.00 lower than the applicable zone.

(2) For each hour, when the vehicle is hired by the hour . . . 25.00

(c) *Baggage charge.* Each passenger shall be allowed to have transported, without extra charge, one suitcase or other piece of baggage. For each extra piece, more than one, a sum not exceeding twenty-five cents ($0.25) shall be charged. Whenever a passenger shall desire to have a trunk transported, a charge may be made for the trunk of not more than one dollar ($1.00). There shall be no charge for wheelchairs, walkers or other equipment used by handicapped individuals.

(Code 1957, §§ 5-309--5-309.3; Ord. No. 838, § 1, 2-7-67; Ord. No. 909, § 1, 12-3-68; Ord. No. 1204/74, § 1, 2-5-74; Ord. No. 1380/78, § 1, 9-5-78; Ord. No. 1416/80, § 1, 4-15-80; Ord. No. 1438/80, § 1, 11-18-80; Ord. No. 1670/88, § 1, 7-5-88; Ord. No. 1805/93, § 1, 8-17-93; Ord. No. 1879/97, § 1, 4-15-97; Ord. No. 1890/98, § 1, 4-21-98; Ord. No. 1944/01, § 1, 6-5-01; Ord. No. 2008/06, § 1, 9-5-06)

Sec. 24-33. Variation from rates established by this article generally.

No person shall charge for taxicab service rates higher than the rates permitted by this article, and in case lesser rates are filed with the city clerk and the hack bureau, any person who charges greater rates than the rates so filed for taxicab service in vehicles to which the advertised lesser rates apply shall be guilty of a violation of this article.

(Code 1957, § 5-309.10)

Sec. 24-34. Charging rates less than established by this article.

Any person desiring to charge taxicab rates less than the rates stated in this article shall be permitted to do so, but before charging lesser rates, the schedule to be charged shall be filed with the city clerk and the hack bureau fifteen (15) days before the rates are put into effect, and a copy of the rates shall be prominently displayed in each vehicle in which the rates are to be charged.

(Code 1957, § 5-309.9)

Sec. 24-35. Display of rates.

(a) A rate card giving the maximum rates allowed to be charged under this article, printed in English, shall be furnished by the city clerk and shall be displayed at all times in the taxicab to which the rates shall apply.

(b) No taxicab shall be operated without the rates of fare applicable thereto being prominently displayed therein.

(c) Any false, misleading or incomplete statement or sign relating to the rate of fare charged, displayed either on the inside or the outside of any taxicab, shall be a violation of this article.

(Code 1957, §§ 5-309.11, 5-309.12)

Sec. 24-36. Determination of fare disputes.

All disputes as to the lawful rate of fare shall be determined by the police officer in charge of the police station; and a failure to comply with his determination, provided it be in accordance with the rates fixed in this article, shall be a violation of this article.

(Code 1957, § 5-309.7)

Sec. 24-37. Fare receipt.

Upon demand, the driver of a taxicab shall furnish to the passenger a receipt for the fare paid, showing the name and card number of the driver.

(Code 1957, § 5-309.6)

Sec. 24-38. Suspension or revocation of licenses issued pursuant to this article; grounds.

The hack bureau or the city clerk may at any time revoke any license issued pursuant to this article for reasonable cause after a hearing, at which the driver or owner may present his proof and cross-examine witnesses. The hack bureau or the city clerk may in his discretion suspend any license hereunder during an investigation of charges of improper conduct by a driver or holder of a taxicab license. If the holder of a taxicab license has discontinued operations for more than sixty (60) days or the holder of a taxicab license or of a taxicab driver's license shall have been convicted of a violation of this article, or any of the provisions of this Code or other ordinances of the city, or of the laws of the United States or the state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation, or shall violate any of the rules and regulations promulgated pursuant to this article by the police department, it shall be deemed reasonable cause for the revocation of the license.

(Code 1957, § 5-312)

Sec. 24-39. Penalty for violation of article.

Any person who shall violate any of the provisions of this article shall be deemed to be guilty of a violation. Any person who shall be convicted of violating this article shall be punished by a fine of not more than two hundred fifty dollars ($250.00), or not more than fifteen (15) days' imprisonment, or by both imprisonment and fine.

(Code 1957, § 5-313; Ord. No. 1133/72, § 1, 7-11-72)

Sec. 24-40. Taxicab board--Creation and composition.

There is hereby established a taxicab board, which shall consist of three (3) members, to be appointed by the city manager for a term of one year, to serve without salary or other benefits, as follows:

One member shall be appointed from the taxi industry;

One member shall be appointed from the public community;

One member shall be appointed from the city government.

(Ord. No. 1415/80, § 1, 4-15-80)

Sec. 24-41. Same--Chairperson; filling vacancies.

The city manager shall designate one member of the taxicab board to serve as chairperson, who shall serve as chairperson at the pleasure of the city manager. In the event that a vacancy occurs in the membership of the board other than by the expiration of a term of office, the city manager may appoint a successor member to serve for the duration of the unexpired term.

(Ord. No. 1415/80, § 1, 4-15-80)

Sec. 24-42. Same--Duties.

It shall be the duty of the taxicab board to:

(a) Advise and make recommendations to the city manager and/or the deputy police commissioner, when requested by either of them, concerning taxi fares, taxi stands, service, licenses, medallions, and any other matters pertaining to the operation of taxicabs in the city;

(b) Advise and make recommendations to the city council concerning the enactment of laws regarding any matter referred to in the preceding subsection (a).

(Ord. No. 1415/80, § 1, 4-15-80)

Sec. 24-43. Advertisements on taxicabs.

All advertisement copy must receive approval from the hack inspector prior to display on any taxicab.

(Ord. No. 1944/01, § 1, 6-5-01)

Sec. 24-44. Reserved.

DIVISION 2. TAXICAB LICENSES

Sec. 24-45. Required.

No person shall use any motor vehicle in the conduct of a taxicab business unless a license therefor is first issued by the city clerk and is in full force and effect.

(Code 1957, § 5-303.1)

Sec. 24-46. Only licensed vehicles to act as taxicabs.

No vehicles other than licensed taxicabs shall carry persons for hire from pickup points within the city to destination points in the city.

(Code 1957, § 5-310.1; Ord. No. 845, § 2, 4-4-67)

Sec. 24-47. (Only renewal.) Licenses to be issued.

Anything to the contrary in this division notwithstanding, the total number of licenses issued by the city clerk, authorized under this division, shall not exceed fifty (50) in number (other than the renewal of an existing license).

(Code 1957, § 5-303.2; Ord. No. 1073/71, § 1, 8-3-71; Ord. No. 2027/08, § 1, 4-1-08)

Sec. 24-48. Application.

Application for a license required by this division shall be made in writing to the city clerk, furnishing in the application the information required by the city clerk and the hack bureau.

(Code 1957, § 5-303.2; Ord. No. 1073/71, § 1, 8-3-71)

Sec. 24-49. Vehicle inspection prerequisite to license.

A vehicle shall be licensed pursuant to this division only after it has been thoroughly examined and inspected and found by the hack bureau to comply with such rules and regulations as may be prescribed by the police department. These rules and regulations shall be promulgated to provide safe transportation and shall specify, among other things, such safety equipment and regulations as the police department shall deem necessary. The city clerk shall refuse licenses to, or if a license has been already issued, the hack bureau shall suspend the licenses of any vehicles found to be unfit for operation as taxicabs.

(Code 1957, § 5-303.2; Ord. No. 1073/71, § 1, 8-3-71)

Sec. 24-50. Liability insurance.

No taxicab shall be licensed pursuant to this division until a certificate from an insurance company duly licensed to do business in the state has been filed certifying that the taxicab is covered by public liability insurance in an amount sufficient to meet the requirements of section 370 of the Vehicle and Traffic Law.

(Code 1957, § 5-303.2; Ord. No. 1073/71, § 1, 8-3-71)

State law references: Financial responsibility, Vehicle and Traffic Law, § 370.

Sec. 24-51. Fees; license period.

(a) The annual fee for a license, sometimes referred to as a medallion, issued pursuant to this division, shall be one hundred eighty dollars ($180.00) for each vehicle owned by the same person, firm or corporation. Each license issued pursuant to this division shall expire on the last day of February next succeeding the date of issuance thereof. An application for renewal must be filed at least fourteen (14) days before its expiration, and if not so filed, the renewal fee for such license shall be two hundred fifty dollars ($250.00).

(b) The fee for replacing a license, or medallion, lost before the end of the licensing period, shall be twenty five dollars ($25.00).

(c) The fee for replacement of a licensed vehicle by another vehicle owned by the

same licensee shall be twenty five dollars ($25.00).

(Code 1957, § 5-307; Ord. No. 958/70, § 1, 3-3-70; Ord. No. 1260/74, § 4, 11-26-74; Ord. No. 1517/83, § 5, 10-18-83; Ord. No. 1523/83, § 1, 12-20-83; Ord. No. 1693/89, § 2, 4-4-89; Ord. No. 3007/16, § 1, 5/24/2016)

Sec. 24-52. Transferability.

No license issued pursuant to this division shall be assigned from one person to another except as provided in this section. Where an owner of a taxicab and license desires to sell, transfer or assign a taxi business or any interest therein, he may request the police commissioner to approve the sale. The purchaser may then make an application for a license in accordance with the terms of this division. If the purchaser shall qualify for a license, a license may be issued to the new owner or purchaser, if the prior owner of the license shall consent to the cancellation of his license so that the total number of licenses authorized to be issued under this division shall not thereby be exceeded.

(Code 1957, § 5-306(b); Ord. No. 943, § 1, 11-5-69)

Secs. 24-53--24-57. Reserved.

DIVISION 3. DRIVERS' LICENSES

Sec. 24-58. Required.

No person shall drive a taxicab or a contract transporter in the city without having first obtained from the city clerk a driver's license therefor, as in this division provided.

(Code 1957, § 5-305.1; Ord. No. 1517/83, § 6, 10-18-83)

Sec. 24-59. Application.

Any person who desires a license required by this division shall make written application to the city clerk therefor and furnish in the application the information required by the city clerk and by the hack bureau.

(Code 1957, § 5-305.1)

Sec. 24-60. Persons eligible for license.

Any person of good character who holds a chauffeur's license issued by the state shall be entitled to a license required by this division, until revoked or suspended as provided in section 24-38.

(Code 1957, § 5-305.1)

Sec. 24-61. Issuance of license.

The city clerk, upon payment of the license fee prescribed in this division shall issue the license required by this division.

(Code 1957, § 5-305.1; Ord. No. 1517/83, § 7, 10-18-83)

Sec. 24-62. Reserved.

Editor's note: Ord. No. 1517/83, § 8, adopted Oct. 18, 1983, repealed § 24-62. Said former section, relative to driver's record, derived from Code 1957, § 5-305.2.

Sec. 24-63. Transferability.

No license issued pursuant to this division shall be assigned from one person to another.

(Code 1957, § 5-306(a); Ord. No. 943, § 1, 11-5-69)

Sec. 24-64. Fees; license period.

(a) The annual fee for a driver's license pursuant to this division shall be fifty dollars ($50.00). Each such license shall expire on the last day of February next ensuing the date of issuance thereof.

(b) The fee for reissuing a driver's license lost before the end of the licensing period shall be twenty dollars ($20.00).

(Code 1957, § 5-307; Ord. No. 958/70, § 1, 3-3-70; Ord. No. 1260/74, § 4, 11-26-74; Ord. No. 1517/83, § 9, 10-18-83; Ord. No. 1523/83, § 2, 12-20-83; Ord. No. 1693/89, § 3, 4-4-89; Ord. No. 2033/09, § 3, 1-6-2009)

Secs. 24-65--24-69. Reserved.

DIVISION 4. CONTRACT TRANSPORTERS

Sec. 24-70. Fees; license period.

(a) The annual fee for a license, issued pursuant to this division, shall be one hundred eighty ($180.00) dollars for each vehicle owned by the same person, firm or corporation. Each license issued pursuant to this division shall expire on the last day of February next succeeding the date of issuance thereof.

(b) The fee for replacing a license, lost before the end of the licensing period, shall be twenty five ($25.00) dollars.

(c) The fee for replacement of a licensed vehicle by another vehicle owned by the same licensee shall be twenty five ($25.00) dollars.

(Ord. No. 2048/09, § 1, 12/15/2009; Ord. No. 3007/16, § 1, 5/24/2016)

Secs. 24-71--24-74. Reserved.

ARTICLE III. TOWING CARS

DIVISION 1. GENERALLY

Sec. 24-75. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

For hire shall mean any instances where a fee, charge or other consideration is directly or indirectly imposed for towing, carrying or removing a vehicle. It shall also include any case where a licensee under this article or any other person makes repairs on the vehicle for a consideration, although no charge is imposed for towing the vehicle.

Person shall mean an individual, partnership, unincorporated association, corporation or other entity.

Property owner shall mean a person who qualifies as a titleholder, leaseholder, tenant as per lease, proprietor, or store manager (or equivalent status but not including an employee) and holds authority in operating or overseeing the business or affairs of the premises of said private property.

Towing shall mean the moving or removing of a disabled motor vehicle by another vehicle for hire.

Towing car shall mean a vehicle that tows, carries or removes, for hire, a vehicle that is disabled or involved in an accident.

Tow operator shall mean a person who controls the direction of the use of a vehicle for towing from places.

(Code 1957, § 5-502; Ord. No. 2041/09, § 1, 7/21/2009)

Sec. 24-76. Legislative findings.

It is hereby declared and found that the towing of disabled motor vehicles in the streets of the city is a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safeguarding the public against fraud, exorbitant rates and similar abuses. The operation of towing cars is a private business and persons engaged therein are entitled to a fair and reasonable return therefrom. However, it is against the public interest for persons rendering this type of service to derive excessive profits from exorbitant rates. It is of vital importance to the traveling public that disabled vehicles be removed from the highways as promptly as possible. Delayed removal results in retarding the movement of traffic, unnecessary congestion, and causes street accidents. Investigation of the towing car business leads to the inevitable conclusion that it is necessary that maximum charges and controls be established for the services rendered by towing car operators and owners which will afford reasonable profit and at the same time protect the public from fraud, exorbitant rates, traffic hazards, unnecessary delays and street congestion.

It is hereby declared and found that the towing of motor vehicles impermissibly parked on private property is a matter affecting the public interest and consequently should be subject to supervision and administrative control. Police officers may occasionally come across a situation where a private tow truck company was called to remove a parked vehicle on private property. For example, a vehicle parked in a parking lot of a store. The operator of such vehicle does not have permission to park on the premises unless the operator is shopping in the store. Tow trucks play a vital role in protecting the owners of private property where owners of vehicles or other persons in control of such vehicles impermissibly or improperly park on the premises by removing that vehicle.

The operation of towing cars is a private business and persons engaged therein are entitled to a fair and reasonable return therefrom. However, persons engaging in towing vehicles for hire to derive excessive profits in charging exorbitant rates are acting against the public interest. The purpose of this Section is to safeguard the public against fraud, exorbitant rates and similar abuses from vehicular removal. For the reasons stated above, vehicles impermissibly or improperly parked on private property may be removed only if all of the following conditions required by this Article are met.

(Code 1957, § 5-501; Ord. No. 2041/09, § 1, 7/21/2009)

Sec. 24-77. Promulgation of rules and regulations.

The commissioner of police shall have power to promulgate and prescribe rules and regulations for the proper and efficient administration and enforcement of this article.

(Code 1957, § 5-516)

Sec. 24-78. Towing charges.

(a) The owner or lessee of each towing car shall file with the commissioner of police a schedule of maximum prices charged for the towing and storage of disabled motor vehicles. Charges for towing shall be based on the distance that disabled motor vehicles are to be towed and shall not be based on the availability of towing car facilities. No towing car owner or operator or other person employed by the owner shall base any towing charge upon estimating. Towing charges shown on the schedules, filed as required herein, shall not exceed the following maximum charges:

(1) For the pickup with standard equipment and towing for the first mile or part thereof, two hundred twenty five dollars ($225.00), and five dollars ($5.00) for each additional mile or part thereof towed.

(2) For the pickup for required flatbed towing, and towing for the first mile or part thereof, two hundred seventy-five dollars ($275.00), and five dollars ($5.00) for each additional mile or part thereof towed.

(b) When moving or removing a disabled motor vehicle from a ditch, field, ocean, channel, canal, creek, or from deep snow, mud, gravel or sand, an additional charge of forty five dollars ($45.00) per half-hour, not to exceed a maximum charge of one hundred eighty dollars ($180.00), shall be allowed on a time basis. All other charges must be shown on the authorization of towing form before a

signature is obtained. A copy showing such extra charges must be given to the vehicle owner or person in charge of the vehicle before the vehicle is towed from the scene.

(c) Subsection (a) shall not apply to the towing of motor trucks exceeding one and one-half (1- 1/2) ton capacity, nor shall it apply to towing under a contract which was in existence prior to the motor vehicle involved having become disabled.

(Code 1957, §§ 5-509, 5-509.1; Ord. No. 569-B, § 1, 4-1-58; Ord. No. 1074/71, § 1, 8-3-71; Ord. No. 1215/74, § 1, 4-2-74; Ord. No. 1351/78, § 3, 3-7-78; Ord. No. 1598/86, §§ 1, 2, 6-17-86; Ord. No. 2047/09, § 1, 12-15-2009; Ord. No. 3045/21, 02-16-2021;Ord. No. 3057/22, 02-01-2022)

Sec. 24-79. Storage charges.

Outside storage charges shall be at the rate of not more than $25 per day. Inside storage rates may be determined by agreement of the tow operator and the vehicle owner. All vehicles must be stored on the premises of the tow car owner's terminal, whether indoors or outdoors, and shall not be permitted on public streets or public parking fields.

(Code 1957, § 5-509.2; Ord. No. 1215/74, § 2, 4-2-74; Ord. No. 1351/78, § 4, 3-7-78; Ord. No. 1598/86, § 3, 6-17-86; Ord. No. 2047/09, § 1, 12/15/2009; Ord. No. 3045/21, 02-16-2021)

Sec. 24-80. Collection of excess charges.

It shall be unlawful for any person to demand or receive any payment in excess of the maximum charges fixed in this article, or in excess of the maximum charges shown on the schedule filed with the commissioner of police.

(Code 1957, § 5-510)

Sec. 24-81. Information to be displayed on towing car.

On each side of each towing car there shall be legibly inscribed the name and address of the owner of the towing car and the license number assigned to him by the city clerk, and each side shall bear the towing rates as set forth in this article. Letters and numerals required by this section shall not be less than one and one-half (1 1/2) inches in height.

(Code 1957, § 5-514)

Sec. 24-82. Obligation to render service.

The owner or driver of any disabled motor vehicle shall have the right to require the service of any available towing car and it shall be unlawful for any owner or driver of any towing car to refuse to render such services if the owner or driver of the disabled motor vehicle is able and willing to pay the fee prescribed in the schedule of prices filed by the owner of the towing car with the commissioner of police; however, this section shall not apply if it is physically impossible for a towing car to tow a disabled vehicle or if a towing car is already going to or returning from a towing job.

(Code 1957, § 5-513)

Sec. 24-83. Authorization for the removal of vehicles.

A towing car owner or operator shall not remove a motor vehicle involved in any accident without an authorization therefor signed by the owner of the vehicle or other person in charge, on a form prescribed by the commissioner of police. The authorization shall be for the towing and storage of the vehicle only, and shall show the rates to be charged for towing and storing the vehicle. It shall be unlawful for a towing car owner or operator to use any other form than that prescribed by the commissioner of police.

(Code 1957, § 5-511)

Sec. 24-84. Estimates and repairs.

(a) No fee shall be charged either directly or indirectly by the owner or operator of a towing vehicle for making an estimate of repairs unless the estimate is specifically ordered in writing, signed by the owner of the vehicle involved in an accident, which writing shall contain the fee to be charged for the estimate.

(b) It shall be unlawful for a towing car owner or operator or any other person to make repairs for a consideration on any motor vehicle involved in an accident and removed by a towing car without first entering into a signed agreement with the owner or other person in charge of such motor vehicle estimating the cost of repairs. The form to be used for such an agreement shall be prescribed by the commissioner of police.

(c) In any case where the owner or person in charge of a motor vehicle involved in an accident is to be hospitalized, the agreements provided for in this section shall not be entered into with such injured party until the expiration of at least twenty-four (24) hours from the time of the accident unless the injured party has, before the expiration of the time, been discharged from the hospital.

(Code 1957, § 5-512)

Sec. 24-85. Penalty for violation of article.

Any person who violates or refuses to comply with any of the provisions of this article shall be guilty of a violation and shall be punished by a fine of not more than two hundred fifty dollars ($250.00), imprisonment for not more than fifteen (15) days, or both.

(Code 1957, § 5-518; Ord. No. 1133/72, § 1, 7-11-72)

Sec. 24-86. Towing of vehicles parked on private property.

(a) No vehicle parked on private property shall be removed by a tow operator without an individual express written authorization from the owner of said property before each vehicle is removed.

(1) Such authorization is required and must include the location, time, date, make, model, color and license plate number of the vehicle to be removed.

(2) A copy of such authorization must be given to the owner or person in control of said vehicle.

(b) No owner or operator of parking facilities on private property shall tow or cause to be towed from such private property any motor vehicle unless such owner or operator shall conspicuously post and maintain upon such private property a sign stating the name, address and telephone number of the tow operator, the hours of operation for vehicle redemption, towing and storage fees of the tow operator and the hours vehicles are prohibited from parking and subject to tow.

(c) Notwithstanding any other provision of this Article, where a licensed tow operator removes a vehicle because it is parked on private property in a manner inconsistent
with posted instruction, such tow operator may collect towing charges pursuant Section 24-78 from the owner or other person in control of such vehicle, payable before the vehicle is released, except that no charge may be collected for removal or storage of a vehicle pursuant to this section by a person not licensed to engage in towing pursuant to this Article.

(d) A vehicle may not be removed if it is occupied by any person or any pet.

(e) A vehicle which is removed pursuant to this section shall be taken to a facility for storage maintained by the person licensed to engage in towing, pursuant to Section 24-91 of this chapter, who has removed such vehicle and which is no more than four miles from the point of removal. Such facility for storage must be a secure place for safekeeping vehicles.

(f) Any person who removes a vehicle pursuant to this section shall promptly report in person and notify the Long Beach Police Department prior to transporting the vehicle to the storage site, the following information: the time the vehicle was removed, the location of the storage site, the location from which the vehicle was removed, the name of the person who authorized the removal and shall obtain the name of the person at the Police Department whom such information was reported and note such name on the trip record together with the time and date that the vehicle was removed.

(g) If the registered owner or other person in control of the vehicle arrives at the scene prior to the removal of the vehicle, and such vehicle is connected to any apparatus for removal, the vehicle shall be disconnected from such apparatus and such registered owner or other person in control of such vehicle shall be allowed to remove the vehicle from the premises without interference upon payment of a reasonable service fee of not more that one-half of the charge allowed for removal as provided for in Section 24-78 of this Article, for which a receipt shall be given.

(h) The registered owner or other person in control of a vehicle which has been removed pursuant to this section shall have the right to inspect the vehicle before accepting its return. No release or waiver of any kind which would release the person or company removing the vehicle from liability for damages may be required from any such owner or other person as a condition of release of the

Sec. 24-85. Penalty for violation of article.

vehicle to such person. A detailed, signed receipt showing the legal name of the person or company
removing the vehicle must be given to the person paying the removal and storage charges at the time of payment.

(i) When an owner of private property or tow operator on behalf of such owner causes a vehicle to be removed in violation of this section, there shall be no charge to the vehicle owner or other person in control of such vehicle for the cost of removal and storage. The owner of private property where a vehicle has been removed pursuant to this Article, or tow truck operator on behalf of the owner, who has violated this section, shall be liable to the vehicle owner or other person in control of such vehicle for any amounts actually paid for the removal, transportation and storage of the vehicle, as well as for any damage resulting from the removal, transportation and storage of the vehicle.

(j) Notwithstanding any other sections of this Article, the owner of private property where a vehicle has been removed or tow operator on behalf of such owner who violates this section shall be punished as follows:

(1) The first violation is subject to a fine or two hundred and fifty dollars ($250.00); the second violation within a period of twelve (12) months of the date of the first violation is subject to a fine of five hundred dollars ($500.00); and any additional violations within a period of twenty-four (24) months of the date of the first violation is subject to a fine of one thousand dollars ($1,000.00).

(2) In addition to the fines imposed for violating this section, the tow operator who violates this section may be subject to the revocation of their mercantile license.

(Ord. No. 2041/09, § 1, 7/21/2009)

Secs. 24-87--24-90. Reserved.

DIVISION 2. LICENSES

Sec. 24-91. Owner's or lessee's license.

(a) It shall be unlawful to operate a towing car for hire in the city unless the owner or lessee thereof, shall have obtained a license therefore issued by the city clerk; however, no license shall be required of any city agency for towing or removing vehicles, and further provided that no license shall be required of any towing car engaged in towing a vehicle from a point outside the city limits to a point inside the city.

(b) There shall be no limit on towing car company licenses issued by the City Clerk. A license issued herein allows for the transaction of business in the City. It does not guarantee or give any additional rights, including the placement on the Police on-call tow list.

(c) Application for a license required by subsection (a) shall be made in writing to the city clerk upon such forms as he shall prescribe. The forms shall include:

(1) The name, address, age and business address of applicant;

(2) The registration number of each towing car to be operated;

(3) A schedule of rates as provided for in this article;

(4) In addition, the applicant shall file with the city clerk a surety company bond to the city in the sum of two thousand dollars ($2,000.00), which surety company shall be duly licensed to do business in the State of New York, and which bond shall be conditioned that the applicant will comply fully with all of the provisions of this Code and the laws of the State of New York with regard to the towing of motor vehicles and the storage and repair thereof.

(d) A tow car shall be licensed pursuant to this division, only after it has been thoroughly examined and inspected and found by the police department to comply with such rules and regulations as may be prescribed by the police department. The city clerk shall not issue, or if a license has been already issued, shall suspend the license of any vehicle found to be unfit for operation as a tow car.

(e) Each licensed tow car shall be issued by the city clerk, a vehicle decal for each vehicle identified by the licensee as a vehicle which will be used in connection with the licensed activities. Such vehicle decals shall be conspicuously displayed in the vehicle(s) used in connection with the licensed activities during the term of the license, and shall be removed upon expiration, suspension or revocation of said license. Failure to display said decal shall be punishable by a minimum fine of one hundred twenty dollars ($120.00).

(Code 1957, §§ 5-503, 5-504; Ord. No. 1622/87, § 4, 4-21-87; Ord. No. 2025/08, § 1, 2-5-08; Ord. No. 2059/11, § 1, 3/15/11; Ord. No. 3007/16, § 1, 5/24/2016)

Sec. 24-92. Driver's or helper's license.

(a) It shall be unlawful for any person to drive a towing car for hire in the city or to be employed as a helper on or in connection therewith unless such driver or helper shall have first obtained a license therefor from the city clerk. An owner who has obtained a license to operate a towing car for hire in the city need not obtain a license for himself as a driver or helper.

(b) Application for a license required by subsection (a) shall be made to the city clerk upon such forms as he shall prescribe.

(Code 1957, §§ 5-505, 5-506)

Sec. 24-93. Fees.

The owner or lessee licensed under this division shall pay the following non-refundable fees:

New application	$200

Renewal application (including first tow car)	$150
Each additional tow car	$100
Replacement license/decal	$25
Late fee (for renewal application received after March 1st)	$100

(Code 1957, § 5-507; Ord. No. 1125/72, § 5, 6-6-72; Ord. No. 1260/74, § 4, 11-26-74; Ord. No. 1523/83, § 3, 12-20-83; Ord. No. 2025/08, § 1, 2-5-08; Ord. No. 3045/21, 02-16-2021; Ord. No. 3057/22, 02-01-2022)

Sec. 24-94. Expiration date of license.

All licenses issued pursuant to this division shall expire on the last day of February next succeeding the date of issuance thereof.

(Code 1957, § 5-508; Ord. No. 1517/83, § 10, 10-18-83)

Sec. 24-95. Transferability of licenses.

No towing car license shall be assigned from one person to another unless in connection with a bona fide sale of the owner's business, in which case the police commissioner shall have the power to approve an assignment of the towing car license. No towing car driver's or helper's license shall be assigned from one person to another.

(Code 1957, § 5-515)

Sec. 24-96. Suspension or revocation.

The commissioner of police shall have the power to suspend or revoke any license issued pursuant to this division for any violation of law or of the provisions of this article or of any of the rules and regulations promulgated by him.

(Code 1957, § 5-517)

Secs. 24-97--24-106. Reserved.

ARTICLE IV. BUSES

DIVISION 1. GENERALLY

Sec. 24-107. Smoking on buses prohibited; notice.

(a) It shall be unlawful for any person to smoke or carry a lighted cigar, cigarette, pipe or match on any bus.

(b) A sign of approved-size lettering shall be posted in a conspicuous place on each bus, which sign shall read as follows:

"NO SMOKING, BY ORDER OF THE FIRE COMMISSIONER."

(c) A violation of this section shall be punishable by a fine of not more than two hundred fifty dollars ($250.00), or imprisonment not exceeding fifteen (15) days, or both.

(Code 1957, § 7-132.2; Ord. No. 875, § 1, 2-6-68; Ord. No. 1133/72, § 1, 7-11-72)

Secs. 24-108--24-112. Reserved.

DIVISION 2. CITY-OWNED BUSES

Sec. 24-113. Fares.

(a) The fare on any city operated bus which is operated solely within city limits shall be two dollars and twenty-five cents ($2.25) per person for one ride in any direction.

(b) A bus transfer shall be issued to any passenger requesting one at the railroad station to transfer from one city bus operated solely within city limits to another city bus operated solely within city limits to continue in the same direction at no additional charge. Each bus transfer shall be collected and accounted for in the same manner as a cash fare when tendered as part of a continuous trip in one direction.

(c) Persons sixty (60) years of age and over shall pay full fare on weekdays, excluding legal holidays, between the hours of 6:00 a.m. and 9:00 a.m. and between the hours of 4:00 p.m. and 7:00 p.m., and shall at all other times be entitled to ride for one dollar ($1.00) upon presentation of an official identity card which shall be issued by the director of transportation.

(d) Students attending schools of the city district shall be required to pay a fare of only one dollar ($1.00) upon presentation of an official identity card which shall be issued by the director of transportation.

(e) The fare on any city-operated bus which is operated between the city and Point Lookout shall be two dollars and seventy-five cents($2.75) per person for one ride in any direction.

(f) The fare for paratransit bus services shall be seventy-five cents ($0.75) for one ride in any direction.

(Code 1957, § 3-801; Ord. No. 539-N, § 1, 6-2-59; Ord. No. 732, § 1, 10-6-64; Ord. No. 1098/71, § 1, 11-29-71; Ord. No. 1102/72, § 1, 12-7-71; Ord. No. 1208/74, § 1, 3-5-74; Ord. No. 1220/74, § 1, 4-23-74; Ord. No. 1233/74, § 1, 7-16-74; Ord. No. 1317/76, § 1, 5-27-76; Ord. No. 1464/82, § 1, 1-19-82; Ord. No. 1539/84, §§ 1--3, 5-1-84; Ord. No. 1715/90, §§ 1--3, 1-16-90; Ord. No. 1769/91, §§ 1--4, 12-17-91; Ord. No. 1979/04, § 1, 4-20-04; Ord. No. 1985/04, § 1, 5-18-04); Ord. No. 2069/12, § 1, 6/19/2012; Ord. No. 2090/14, § 1 ,6/17/2014)

Sec. 24-114. Reserved.

Editor's note: Section 24-114, relative to student fares and transfers, was repealed by § 2 of Ord. No. 1464/82, adopted Jan. 19, 1982. Formerly, said provisions derived from Code 1957, § 3-802; Ord. No. 539-N, § 1, adopted June 2, 1959; Ord. No. 1209/74, § 1, adopted March 5, 1974; and Ord. No. 1233/74, § 2, adopted July 16, 1974.

Sec. 24-115. Passengers to have exact fares.

Passengers shall be required to present exact fare when boarding a city-owned bus.

(Ord. No. 1098/71, § 2, 11-29-71)

Chapter 25 WATER AND SEWERS*

***Editor's note:** Section 1 of Ord. No. 1773-92, adopted Mar. 17, 1992, repealed and reenacted this chapter in its entirety. Since the basic order of the chapter was retained, the editor has included complete history notes as necessary as well as prior editor's notes. Other editor's notes have been included as necessary to explain changes and deletions.

Charter references: Authority to build public works and rebuild service plants, § 79; water assessments, § 120 et seq.; sewer rents, § 122; utility tax, § 122-a.

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Art. II. Water and Water Distribution, §§ 25-19--25-82
Div. 1. Generally, §§ 25-19--25-24
Div. 2. Rates, Charges and Billing, §§ 25-25--25-39
Div. 3. Water Meters, §§ 25-40--25-61
Div. 4. Use of Water for Cooling Purposes, §§ 25-62--25-65
Div. 5. Use of Water for Hoses and Sprinkling Systems, §§ 25-66--25-75
Div. 6. Water Conservation Measures, §§ 25-76--25-82
Art. III. Sewage and Sewage Disposal, §§ 25-83--25-126
Div. 1. Generally, §§ 25-83--25-95
Div. 2. Connections, §§ 25-96--25-110
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Div. 4. Administration and Enforcement, §§ 25-117--25-126
Art. IV. Extraterritorial Services, §§ 25-127--25-147
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Div. 3. Installation, §§ 25-156, 25-157
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Art. VI. Stormwater Management, §§ 25-170--25-189
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Art. VII. Prohibition of Illicit Discharges, Activities, and Connections to Separate Storm Sewer System, §§ 25-190--25-209
Art. VIII Private Sewer Laterals, §§ 25-210--25-220

ARTICLE I. IN GENERAL

Sec. 25-1. Definitions.

(a) Whenever the term "commissioner of public works" or "commissioner" is used in this chapter, it shall mean and include the commissioner of public works and/or his authorized deputy, agent or representative.

(b) Whenever the term "owner" is used in this chapter, it shall mean and include the owner or owners of the fee of the premises or lesser estate therein, a vendee in possession, a mortgagee or receiver in possession, an assignee of rents, a lessee or joint lessees of the whole thereof, an agent or any other person directly

in control of the building, or a tenant in or out of possession.

(c) Whenever the term "supervisor of water/sewer administration" or the word "supervisor" alone is used in this chapter, it shall mean and include the supervisor of water/sewer administration and/or his authorized deputy, agent, designee or representative.

(d) Whenever the term "superintendent" is used in this chapter, it shall mean and include the superintendent of water and sewer maintenance or his designee.

(Ord. No. 1283/75, § 1, 6-17-75; Ord. No. 1430/80, § 1, 9-16-80; Ord. No. 1773/92, § 1, 3-17-92)

Editor's note: Prior to amendment by Ord. No. 1283/75, § 25-1 pertained to quarterly billing and was derived from Code 1957, § 4-218; Ord. No. 971/70, adopted May 18, 1970; and Ord. No. 1052/71, adopted June 8, 1971.

Sec. 25-2. Connection deposit.

All applications for installation or reservicing of a connection to the city's water or sewage system within city limits shall be made to the supervisor of water/sewer administration. The application shall be referred by said supervisor to the superintendent or assistant superintendent of the department involved, and the latter shall estimate the charges payable by the applicable for each such connection, and shall inform said supervisor thereof. The said estimated charges for each such connection must be deposited with said supervisor by the applicant before any work may be instituted, and the amount so deposited shall be credited to the account of the applicant as a deposit against the actual charge for the connection.

(Code 1957, § 4-216.1; Ord. No. 812, § 1, 10-4-66; Ord. No. 1430/80, § 2, 9-16-80; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-3. Reserved.

Editor's note: Section 25-3, "Cost of Connection," derived from Code 1957, § 4-216.2, and Ord. No. 1430/80, § 3, adopted Sept. 16, 1980, was repealed by Ord. No. 1773/92 in its repeal and reenaction of this chapter.

Sec. 25-3.1. Road opening permits.

(a) After the payment of the connection deposit required by section 25-2, the applicant must secure a road opening permit from the commissioner of public works. The requirements for granting a road opening permit are:

(1) Completion of an application supplied by the commissioner; and

(2) Payment of an application fee of seventy-five dollars ($75.00); and

(3) A certificate of insurance showing that the applicant has procured a policy of general liability insurance, in which the City of Long Beach is an additional named insured, and which covers the applicant's intended work at the time and place covered in the application, and which further provides a minimum of three hundred thousand dollars ($300,000.00) in coverage for bodily injury for each occurrence and twenty thousand

dollars ($20,000.00) for property damage; and

(4) Either a survey or an accurate diagram of the site of the proposed work which details the locations of the proposed connections.

(b) Upon each application, the superintendent shall make an estimate of the cost of restoring the roadway after the applicant's anticipated work is completed, and he shall provide the commissioner with said estimate. Based upon this estimate, the commissioner shall require, before granting a permit, that the applicant deposit moneys in escrow with the commissioner to ensure that funds are available to restore the roadway in the event that the applicant fails to do so. The escrow moneys shall be held by the commissioner until such time as the applicant advises the commissioner that the roadway is restored and the commissioner approves the restoration.

(c) The commissioner may deduct from the applicant's escrow moneys any costs incurred by the city in providing temporary maintenance to the site of the applicant's work.

(d) The applicant and/or his agents, servants, independent contractors and employees shall bear the sole tort liability for any injury or damage which results, or is alleged to have resulted, from the failure of the applicant and/or his agents, servants, independent contractors and employees to safely and properly perform the work in the roadway and make complete restoration thereat. The applicant shall hold the city harmless and indemnify the city for any judgment which results from bodily injury or property damage alleged to have arisen from the applicant's work, even if the city found it necessary or expedient to perform temporary or permanent maintenance and/or restoration work at the site of the road opening prior to the occurrence of the injury or damage.

(Ord. No. 1773/92, § 1, 3-17-92)

Secs. 25-4, 25-5. Reserved.

Editor's note: Ord. No. 1430/80, § 4, enacted Sept. 16, 1980, repealed §§ 25-4 and 25-5. Formerly these sections were relative to pretapping preparations and restoration of connection excavation and were derived from Code 1957, §§ 4-216.1(a) and 4-216.1(b), respectively.

Sec. 25-6. Responsibility of the owner.

(a) The installation, reservicing and proper maintenance of all water and sewer lines from and between the curbline of the property to and into the house and/or other termination of such line in and upon the property shall be the sole responsibility and obligation of the owner of such property. All such water and sewer lines shall be installed, reserviced and properly maintained by a duly licensed master plumber in conformity with the provisions of this Code and the rules and regulations of the City of Long Beach, at the sole cost and expense of the owner of the property. For repairs performed by the city between the water main and the curb, the city shall charge the owner for the cost of materials plus an administrative fee.

(b) In the event that the owner of the property shall fail, neglect or omit to properly

maintain the water and sewer lines described in this section, such owner shall be guilty of an offense, punishable as provided in section 1-8 of this Code.

(c) All of the excavation work, dewatering, sheathing and protection of adjacent structures, as well as the backfilling in connection with a connection to the city water or sewerage system shall conform to the rules and regulations of the department of public works.

(Ord. No. 1430/80, § 5, 9-16-80; Ord. No. 1773/92, § 1, 3-17-92)

Editor's note: Ord. No. 1430, § 5, enacted Sept. 16, 1980, repealed § 25-6 relative to expense of safety measures and enacted in lieu thereof a new § 25-6 as above set out. Former § 25-6 was derived from Code 1957, § 4-216.1(c).

Sec. 25-7. Reserved.

Editor's note: Section 25-7, specifying that work be done under the supervision of the department of public works, derived from Code 1957, § 4-216.1(d), was repealed by Ord. No. 1773/92 in its repeal and reenactment of this chapter.

Sec. 25-8. Emergency repairs.

Within city limits, the cost of all emergency repairs required for water and sewer lines between the city water and sewer lines and the water curb stop or sewer curb cleanout shall be the sole responsibility of the owner of the abutting property. All charges incurred for road opening permit fees, it any, the cost of materials and road repairs, and administrative costs, shall be certified by the superintendent or assistant superintendent of the outside water or sewer department to the supervisor of the water/sewer administration, who shall charge the total amount of such charges as a debit against the account of the owner of the abutting property and send a notice of or bill for such charges to such owner. Said costs and charges shall constitute a lien against said abutting property when said costs and charges are entered on the records of the city's water/sewer administration and shall be paid and discharged and shall be subject to the same penalties, relevy and sale as provided in this Code of Ordinances and the city charter for the nonpayment and collection of water and sewer charges.

(Ord. No. 1430/80, § 6, 9-16-80; Ord. No. 1773/92, § 1, 3-17-92)

Editor's note: Ord. No. 1430, § 6, adopted Sept. 16, 1980, repealed § 25-8 relative to connection work which may be performed by the city and in lieu thereof enacted a new § 25-8 as set out above. The former section was derived from Code 1957, § 4-216.1(e).

Sec. 25-9. New construction.

From and after the enactment of this section, the installation of all new water and sewer lines from and between the city water and sewer mains to and into the house and/or other termination of such lines in and upon the property shall be the sole responsibility of the owner of such property. All such water and sewer lines shall be installed by a duly licensed master plumber in conformity with the provisions of this Code and the rules and regulations, and under the supervision of the superintendent, at the sole cost and expense of the owner of such property.

(Ord. No. 1558/85, § 1, 1-2-85; Ord. No. 1773/92, § 1, 3-17-92)

Secs. 25-10--25-18. Reserved.

ARTICLE II. WATER AND WATER DISTRIBUTION

DIVISION 1. GENERALLY

Sec. 25-19. Leakage of water causing dangerous condition.

If it shall come to the attention of the supervisor of water/sewer administration that there is such a leakage of water resulting from damaged or faulty plumbing, fixtures or any other cause that a dangerous condition is created which threatens the life, health, property or welfare of others, the supervisor is authorized to shut off the water to such premises until the cause of such leakage shall have been repaired or corrected.

(Ord. No. 1430/80, § 7, 9-16-80; Ord. No. 1773/92, § 1, 3-17-92)

Editor's note: Ord. No. 1430/80, § 7, adopted Sept. 16, 1980, repealed § 25-19 relative to inspections for defective plumbing and enacted in its place a new § 25-19 as above set out. The former § 25-19 was derived from Code 1957, § 4-214.3f; Ord. No. 1044/71, § 1, adopted May 4, 1971; and Ord. No. 1283/75, § 2, adopted June 17, 1975.

Secs. 25-20--25-24. Reserved.

DIVISION 2. RATES, CHARGES AND BILLING

Sec. 25-25. Generally.

All rates and charges for city water distribution shall be as established from time to time by the council by ordinance. All ordinances of the city establishing water rates and charges are hereby expressly saved from repeal and are continued in full force and effect, as if set out in full in this article.

(Code 1957, § 4-214.1; Ord. No. 399-K, § 1, 3-1-60; Ord. No. 399-L, § 1, 10-3-61; Ord. No. 399-N, § 1, 5-1-68; Ord. No. 898, § 8-6-68; Ord. No. 944, § 1, 11-12-69; Ord. No. 1044/71, § 1, 5-4-71; Ord. No. 1095/71, § 1, 11-29-71; Ord. No. 1128/72, § 1, 6-6-72; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-26. Water charges and sewer rents.

(a) *Water rates*:

(1) On and after July 1, 2021, the charge for water furnished by the city shall be four dollars and sixty-eight cents ($4.68) for each one thousand (1,000) gallons used or consumed upon each parcel of real estate in the city, as recorded by water meters or as estimated by the water/sewer administration at the city's discretion, and bills shall be rendered on the basis of said rate and shall be billed quarterly.

(2) A minimum charge per quarter will be based on twelve thousand (12,000) gallons and a fee of fifty six dollars and sixteen cents ($56.16).

(3) The following rates are applied to water usage per quarter:

Usage:	Water Rate:
12,001--150,000 gallons	$**5.00**
150,000--300,000 gallons	$**5.09**
300,001--600,000 gallons	$**5.31**
600,001 and above	$**5.83**

(b) *Charges for firematic systems:* On or after July 1, 2019, the charges for firematic systems shall be billed quarterly in advance, shall be due and payable when billed and entered, and shall be computed as follows:

Size of Firematic Supply	Quarterly Charge
Up to and including 2”	$114.91
Over 2” but not over 3”	$210.26
Over 4”	$740.01
Each standpipe not connected to a firematic system	$220.63

Penalties for nonpayment of bills for firematic systems shall be as follows:

All such charges due and not paid as of December 31st of said year and not paid for by May 31st of the following year, shall be relevied on June 1st and will appear on the July tax bill. There shall be a relevy charge of a minimum of one hundred dollars ($100.00) or ten (10) percent of said charges, whichever is greater.

(c) *Liens and Penalties:*

(1) Each and every charge for water furnished and/or sewer rents from and after July 1, 1976, and any and all other charges related thereto, shall become a lien upon the property to which the same is furnished when such charges are billed and entered on the records of the city, and shall be paid and discharged within thirty (30) days thereafter. In the event that any such bill shall not be paid within thirty (30) days after the date it is so billed and entered, a penalty shall be added thereto and charged and collected at the rate of one and one-half (1 1/2) percent thereof for each month or portion of a month from the date it was so billed and entered until such bill shall have been paid, except that no penalties shall be collected on estimated water and/or sewer bills rendered for the period from July 1, 1976, to December 31, 1976, and any penalties which have been paid on such estimated bills shall be credited on subsequent bills for such premises.

(2) On and after January 1, 1977, each and every charge for water furnished and/or sewer rents, and any and all other charges related thereto, shall become a lien upon the property to which the same is furnished when such charges and rents are billed and entered on the records of the city, and shall be due and payable when such bill is rendered. In the event that any such bill shall not be paid within ninety (90) days after the date it is so billed and entered, a penalty shall be added thereto and charged and collected in an amount equal to ten (10) percent of the total amount of said bill.

(3) On and after January 1, 1982, each and every charge for water furnished and/or sewer rents, and any and all other charges related thereto, shall become a lien upon the property to which the same is furnished when such charges and rents are billed and entered on the records of the city, and shall be due and payable when such bill is rendered. In the event that any such bill shall not be paid within thirty (30) days after the date it is so billed and entered, a penalty shall be added thereto and charged and collected in an amount equal to ten (10) percent of the total amount of said bill.

(4) Each and every charge for water furnished and/or sewer rents from and after May 1, 1992, and any and all other charges related thereto, shall become a lien upon the property to which the same is furnished when such charges are billed and entered on the records of the city, and shall be paid and discharged by the last business day of the month in which bill is rendered. In the event that any open charges shall not be paid by the last business day of the month in which the bill is rendered, a penalty shall be added thereto and charged and collected at the rate of one and one-half (1 1/2) percent thereof on all charges for each month or portion of a month from the date it was so billed and entered until such bill shall have been paid.

(d) In the event that any bill for water furnished and/or sewer rents, and/or any and all other charges related thereto, shall not have been paid within forty-five (45) days after the date it is billed and entered on the records of the city, the supervisor of the water/sewer department shall have the right to discontinue such service or services to the premises involved whenever the owner neglects, omits or refuses, after at least fifteen (15) days' written notice sent by ordinary mail or otherwise, to pay such bill and the penalties thereon.

(Ord. No. 1316/76, § 1, 5-27-76; Ord. No. 133/76, § 1, 9-21-76; Ord. No. 1372/78, § 1, 6-27-78; Ord. No. 1404/79, § 1, 10-16-79; Ord. No. 1461/81, §§ 1, 2, 10-6-81; Ord. No. 1600/86, § 1, 7-1-86; Ord. No. 1630/87, § 1, 7-7-87; Ord. No. 1705/89, § 1, 8-1-89; Ord. No. 1773/92, § 1, 3-17-92; Ord. No. 1866/96, § 1, 9-17-96; Ord. No. 1870/96, § 1, 12-3-96; Ord. No. 1983/04, § 1, 5-4-04; Ord. No. 1993/04, § 1, 11-3-04; Ord. No. 1997/05, § 1, 2-15-05; Ord. No. 2002/05, § 1, 5-3-05; Ord. No. 2036/09, § 1, 2/3/09; Ord. No. 2049/10, § 1, 4/20/2010); Ord. No. 2070/12, § 1, 6/19/2012; Ord. No. 2090/14, § 1 ,6/17/2014; Ord. No. 3007/16, § 1, 5/24/2016; Ord. No. 3015/16, § 1, 6/6/2017; Ord. No. 3031/19, 5-21-2019; Ord. No. 3032/19, 7-16-2019; Ord. No. 3037/19, 10-2-2019); Ord. No. 3051/21, 05-18-2021)

Sec. 25-27. Computation of sewer rents.

Sewer rents shall be computed in the manner authorized by section 122(b) of the Charter of the City of Long Beach.

(Ord. No. 1773/92, § 1, 3-17-92)

Editor's note: Former § 25-27, relative to inspection for classification purposes, was repealed by § 8 of Ord. No. 1430/80, enacted Sept. 16, 1980. The section was derived from Code 1957, § 4-214.3A; Ord. No. 1044/71, § 1, adopted May 4, 1971; and Ord. No. 1283/75, § 3, adopted June 17, 1975. A new § 25-27 was enacted by Ord. No. 1773/92 in its reenactment of this chapter.

Sec. 25-28. Record of property liable for water charges.

The supervisor shall cause to be kept a permanent record showing every piece of property in the city liable for water charges. As to each such piece of property, the record shall show in detail the following:

(a) The section, block, lot and street address of the premises;

(b) The last known owner of the property and his address.

The supervisor shall cause permanent records to be kept which shall contain the information required by this section, and in addition thereto, such records shall show the meter number, the size of the meter, the periodic readings and the charges against the property. Whenever any meter is out of service or repair, such fact shall be noted upon the record required by this section, together with the dates when the meter was known to be out of service and the reason, if known.

(Code 1957, §§ 4-214.3A, 4-214.3C; Ord. No. 1044/71, § 1, 5-4-71; Ord. No. 1283/75, § 4, 6-17-75; Ord. No. 1430/80, § 9, 9-16-80; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-29. Reading of water meters.

The supervisor shall cause periodic readings to be made of all water meters in the City of Long Beach at such times and intervals as he shall deem proper, advisable and expedient.

(Code 1957, § 4-214.3B; Ord. No. 1283/75, § 5, 6-17-75; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-30. Unlawful use of water from unmetered fire lines.

The owner of any premises in which it has been found that water passing through unmetered fire lines is being used for purposes other than fire, shall be deemed to be guilty of disorderly conduct, and shall be subject to a fine of not less than two hundred fifty dollars ($250.00) and not more than one thousand dollars ($1,000.00).

(Code 1957, § 4-214-3G; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-31. Continuation of charges.

Enactment of new water and/or sewer rates from time to time shall not invalidate charges incurred under the former rates.

(Code 1957, § 4-214.4; Ord. No. 399-K, § 2, 3-1-60; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-32. Charges upon failure to take remedial action.

In the event that the owner shall fail, neglect or refuse to comply with a written order of the supervisor to correct water leaks, to install a water meter, to reset or relocate a water meter, or to correct any other condition deemed necessary or expedient by the supervisor for the purposes of this chapter, within fifteen (15) days after service of such order upon the owner by ordinary mail or otherwise, the supervisor is authorized and directed to charge the owner double the normal charge for water used or estimated to have been used until the order shall have been complied with or the water shall have

been shut off and these extra charges shall be nonrefundable.

(Code 1957; § 4-214.3E; Ord. No. 399-M, § 1, 3-1-60; Ord. No. 1044/71; Ord. No. 1283/75, § 6, 6-17-75; Ord. No. 1773/92, § 1, 3-17-92)

Secs. 25-33, 25-34. Reserved.

Editor's note: Section 7 of Ord. No. 1283/75, adopted June 17, 1975, repealed §§ 25-33, 25-34, pertaining to the maximum cost for two-inch lines and a maximum size for water taps, derived from Code 1957, §§ 4-216.3, 4-216.4, and Ord. No. 689, adopted Nov. 6, 1963.

Secs. 25-35--25-39. Reserved.

DIVISION 3. WATER METERS

Sec. 25-40. Reserved.

Editor's note: Section 25-40, containing a definition of "owner," derived from Code 1957, § 12-301(14), was repealed by Ord. No. 1283/75, § 7, adopted June 17, 1975.

Sec. 25-41. When water meters required.

A water meter shall be installed in, upon or adjacent to every house, building, structure or land where water is used, by the owner thereof, and all water used or consumed in or upon any such premises in the City of Long Beach shall pass through and be measured by a water meter at all times, except for firematic and/or standpipe systems, and except for water used or consumed by any department in or any structure owned or used by the City of Long Beach. The rates and charges for water furnished or supplied, and for sewer service where applicable, shall be fixed from time to time by the city council in section 25-26 or as otherwise enacted.

There shall be a minimum water charge as defined in Sec. 25-26, plus a corresponding sewer rent as authorized by section 122(b) of the Charter of the City of Long Beach, including legally disconnected meters, to be charged each month, except that there shall be no minimum charge for meters used exclusively to measure water used only for lawn sprinkling and/or an outside swimming pool during the period when said lawn sprinkler and/or outside pool meters are legally disconnected. Water charges for meters used exclusively to measure water used only for lawn sprinkling and/or an outside swimming pool are to be based on actual consumption; there shall be no minimum charge. Firematic and/or standpipes systems shall be charged a flat rate basis. Water charges for water used or consumed by any department or in any structure owned or used by the City of Long Beach, and sewer charges where applicable, shall be estimated by the supervisor.

(Code 1957, § 12-301; Ord. No. 1283/75, § 8, 6-17-75; Ord. No. 1305/75, § 1, 12-30-75; Ord. No. 1335/77, § 1, 2-1-77; Ord. No. 1479/892, § 1, 7-20-82; Ord. No. 1600/86, § 2, 7-1-86; Ord. No. 1630/87, § 2, 7-7-87; Ord. No. 1773/92, § 1, 3-17-92; Ord. No. 1870/96, § 2, 12-3-96; Ord. No. 2010/06, § 1, 11-21-06; Ord. No. 3052/21, 07-06-2021)

Sec. 25-42. Installation and maintenance of water meters.

(a) The supervisor shall determine the appropriate size and specifications of the water meter to be installed in or upon each building or other premises in the City of Long Beach. Where appropriate, one (1) water meter of one (1) inch or less in size, together with a remote reader and cable where deemed appropriate, shall be furnished by the City of Long Beach, and shall remain the sole and exclusive property of the City of Long Beach. All water meters exceeding one (1) inch in size shall be furnished by the owner of the premises in which they are required to be installed, without any credit or allowance therefor from the city.

(b) Water meters within the city shall be installed only by a licensed plumber who has received a certificate of competency pursuant to chapter 21, article III, division 2 of this Code, or who has a temporary limited license pursuant to section 21-56(b) thereof, at the cost and expense of the owner or other person in possession or control of the premises in which each such water meter is installed or to be installed. Such plumber shall furnish all fittings and other materials which may be required for such installation.

(c) Such water meters shall be installed in accordance with the rules and regulations promulgated or to be promulgated and amended by the commissioner of public works.

(d) The owner or other person in possession or control of such premises wherein a water meter is installed pursuant to this division shall indemnify and hold harmless the City of Long Beach for any damages occasioned by such installation, removal and/or presence of said water meter in such premises.

(e) All water meter rates will be based upon quarterly periods of time as the supervisor shall prescribe. If, for any reason, a meter is not read quarterly, an estimated charge shall be made on the basis of the average consumption for a similar prior period, or on the basis of similar premises. Each and every charge for water shall become a lien upon the property when billed to the owner.

(f) If for any reason whatsoever, a meter registers improperly, the owner will be charged on the basis of a similar prior period or similar premises.

(g) No meter shall be removed or disturbed without written authority from the supervisor.

(h) The owner and all other persons in possession or control of the premises shall provide ready and convenient access to the meter at all reasonable times so that it may be read and/or examined by the representatives of the supervisor. If the owner or occupant denies access to the meter, the supervisor may, upon five (5) days' prior written notice to the owner and/or occupant, assess charges as authorized by section 25-32. Such extra charges shall be nonrefundable.

(i) Water meters may be disconnected and reinstalled only by the supervisor, or by a duly licensed plumber authorized in writing by the supervisor. Water meters will be removed and tested upon request of the property owner. If any meter so tested shall be found to be registering correctly or to be running slowly or not to exceed two (2) percent fast, then the expense of removing, testing and reinstalling such meter will be charged to the property owner, and shall become a lien against said property when billed to the property owner.

(j) The supervisor shall have the right to discontinue water service to the premises involved whenever the owner neglects or refuses, after at least fifteen (15) days written notice sent by ordinary mail or otherwise, to pay for water consumed or charges incurred, or to install or to change the location of a water meter. After such water bill or charges shall have been paid, or such meter shall have been installed, or such location shall have been changed pursuant to such notice, water service shall be resumed upon the approval of the supervisor and the payment of a turn-on charge of fifty dollars ($50.00).

(k) No person shall permit the waste of water or improperly take water from the municipal water system which has not first passed through a meter or interfere with any valve or seal without the written authorization of the supervisor. The supervisor may limit the quantity of water used whenever, in his/her judgment, it is necessary or expedient to do so.

(Code 1957, § 12-301(1); Ord. No. 339-M, § 1, 3-1-60; Ord. No. 1283/75, § 9, 6-17-75; Ord. No. 1773/92, § 1, 3-17-92; Ord. No. 3052/21, 07-06-2021)

Secs. 25-43, 25-44. Reserved.

Editor's note: Section 10 of Ord. No. 1283/75, adopted June 17, 1975, repealed §§ 25-43, 25-44, pertaining to location of meters and partial metering, derived from Code 1957, § 12-301(2).

Sec. 25-45. Setting of meters.

Prior to setting any water meter, the plumber shall file with the building commissioner, in duplicate, a plan or sketch showing the proposed installation, the plan or sketch to indicate location of service main house valve inside of the building; the distance of meter from the point of entry of service; the height from the floor; the size and type of water meter; and the approximate date of setting. No permit shall be issued unless the water meter location and other items shown on such plan or sketch are satisfactory to the building commissioner or his designee.

(Code 1957, § 12-301; Ord. No. 1283/75, § 11, 6-17-75; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-46. Pits.

(a) No water meter shall be set or reset in a pit within any building without permission of the supervisor. For one-inch or smaller meters, the pit shall not be less than two (2) feet six (6) inches wide, by three (3) feet six (6) inches long and shall be less than four (4) feet in depth, and shall be provided with a cover so constructed as to permit the entire pit to be uncovered by one (1) person. For larger meters, pits shall be of sufficient size to permit access to all portions of the water meter and its connections and, if covered, the pit shall be provided with an opening at least two (2) feet square or two (2) feet six (6) inches in diameter. The cover to the opening shall be provided with a suitable handle or grip and shall not be too heavy for one (1) person to lift. Pits more than four (4) feet in depth shall be provided with a permanent, built-in ladder, and meter boxes approved by the examining board of plumbers may be used. Meters two (2) inches in diameter or less, set in pits, shall be installed within two (2) feet of the top of the pit.

(b) The owner and/or occupant of the premises served by the pit shall maintain the pit and cover in good condition and shall repair as necessary. In the event that any person shall be injured or property be damaged as a result of a defective or dangerous pit or cover, the owner and/or occupant shall bear the sole tort liability for any and all claims arising from such incidents and shall indemnify the city for any judgment against it.

(c) In the event that a repair or maintenance to the pit and/or cover becomes necessary, the supervisor shall determine the cost of such repair or maintenance, if the work is done by the City of Long Beach, and shall bill the property owner a like amount. Said charges shall become a lien upon the property like any other water charge.

(Code 1957, § 12-301(4); Ord. No. 1283/75, § 12, 6-17-75; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-47. Seals.

No seal placed by the supervisor for the protection of any meter, valve, fitting or any other water connection shall be tampered with or defaced, and such seal shall not be broken except on written authorization of the supervisor. In the event that a seal shall be broken without such written authorization, the supervisor is authorized to order the meter removed, tested and reinstalled at the cost and expense of the owner. Upon conviction of a violation of this section, the violator shall be fined not less than two hundred fifty dollars ($250.00) and not more than five hundred dollars ($500.00) for each offense.

(Code 1957, § 12-301(5); Ord. No. 1283/75, § 13, 6-17-75; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-48. Duty of owner or consumer to safeguard meters and seals.

The owner or consumer shall be responsible for safeguarding the water meter and its seal, and if required by the supervisor, he shall properly box and protect the water meter.

(Code 1957, § 12-301(6); Ord. No. 1283/75, § 14, 6-17-75; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-49. Disconnecting and reinstalling water meters.

Water meters shall be disconnected and reinstalled only by the supervisor, except that when the water supply of a building or other premises is to be shut off and water service discontinued at the request of the owner, a licensed plumber may disconnect the meter, provided that such plumber shall comply with all rules and regulations of the supervisor applying thereto; and a licensed plumber may thereafter reinstall such water meter, provided that he shall comply with all rules and regulations of the supervisor applying thereto.

(Code 1957, § 12-301(7); Ord. No. 1283/75, § 15, 6-17-75; Ord. No. 1430/80, § 10, 9-16-80; Ord. No. 1773/92, § 1, 3-17-92)

Secs. 25-50, 25-51. Reserved.

Editor's note: Ord. No. 1283/75, § 15, enacted June 17, 1975, repealed §§ 25-50 and 25-51, pertaining to reinstallation of water meters, and meter sizes, derived from Code 1957, § 12-301(8), (9), and Ord. No. 399-M, § 1, enacted March 1, 1960.

Sec. 25-52. Repair of water meters.

(a) All residential water meters which are the property of the City of Long Beach shall be maintained and repaired by the city for ordinary wear and tear. Any repair to a water meter which, in the opinion of the supervisor, is necessitated by tampering, abuse, freezing, or gross neglect, shall be charged to the owner and shall become a lien on the property in the manner of any other water bill.

(b) The failure or refusal of the owner of any premises to repair and maintain any water meter in said premises, which said owner is required to repair and maintain in good and operating condition within fifteen (15) days after written notice to do so is sent to such owner by ordinary mail or otherwise, shall constitute a violation of this division, and shall be punishable as provided by section 25-56.

(c) Whenever a water meter of one (1) inch or less is out of order or out of repair, or is not correctly recording the water which passes through it, or is out of service for any reason while water is being used at the premises, the owner shall be charged for water and sewer services at the same rate and under the same conditions as imposed under section 25-32.

(d) Whenever a water meter greater than one (1) inch is out of order or out of repair, or is not correctly recording the water which passes through it, or is out of service for any reason while water is being used at the premises, and the owner fails to correct the condition or repair the meter within sixty (60) days, the supervisor shall bill the owner at double the estimated use, no part of which shall be refundable. This rate shall apply regardless of whether or not the condition of the meter, or a delay in repair of the meter, is the fault of the owner.

(Ord. No. 1283/75, § 16, 6-17-75; Ord. No. 1328/76, § 1, 9-7-76; Ord. No. 1773/92, § 1, 3-17-92)

Editor's note: Section 16 of Ord. No. 1283/75 repealed §§ 25-52--25-54 and enacted in lieu thereof a new § 25-52. The repealed sections pertained to meters and were derived from Code 1957, §§ 4-214.3D, 12-301; Ord. No. 399-M, adopted March 1, 1960; and Ord. No. 1044/71, adopted May 4, 1971.

Secs. 25-53, 25-54. Reserved.

Note: See the editor's note following § 25-52.

Sec. 25-55. Unlawful interference with water meters.

No person shall willfully:

(a) Break or deface, or cause to be broken or defaced, the seal of a water meter;

(b) Obstruct, alter, injure or prevent, or cause to be obstructed, altered,

injured or prevented, the section of any meter, or other instrument, used to measure or to register the quantity of water supplied to or consumed by any person;

(c) Make or cause to be made any connection by means of pipe, conduit or otherwise with the water main or service pipe of any person, municipal or otherwise, furnishing water to consumers, in such a manner as to take water from the main, or service pipe, without its passing through the meter or other instrument provided for registration or measuring the amount or quantity of water taken from said main or service pipe;

(d) Make any connection or reconnection with the water main or service pipe of any person furnishing water to a consumer, or turn on or off, or in any manner interfere with any valve, stopcock or other appliance belonging to the person, municipal or otherwise, without obtaining from the person a written permit to make the connection or reconnection, or to turn or otherwise interfere with the valve, stopcock or other appliance;

(e) Prevent by the creation of any device or construction, or by any other means, free access to any water meter by the person furnishing the water, or interfere, obstruct or prevent, by any means, the reading or inspection of such meter; or

(f) Fail, neglect or refuse to install a water meter when so required by this article.

(Code 1957, § 12-301(12); Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-56. Penalty for violation of division.

Every violation of each section of this division shall be deemed a violation as defined in the Penal Law of the State of New York, and upon conviction thereof, such person shall be subject to a fine of not more than five hundred dollars ($500.00) plus an amount equal to six (6) months of water charges from a period prior to the violation, with the specific six-month period to be selected at the discretion of the supervisor, or by imprisonment not to exceed fifteen (15) days, or by both such fine and imprisonment; except that where a section of this article prescribes a specific fine for its violation, that fine shall apply instead of this section.

(Code 1957, § 12-301(13); Ord. No. 399-M, § 1, 3-1-60; Ord. No. 1145/72, § 10-3-72; Ord. No. 1153/72, § 1, 7-11-72; Ord. No. 1773/92, § 1, 3-17-92)

Secs. 25-57--25-61. Reserved.

DIVISION 4. USE OF WATER FOR COOLING PURPOSES

Sec. 25-62. "Air conditioning" defined.

The term "air conditioning" as used in this division applies to that equipment used primarily for human comfort cooling, and shall be considered on the basis that one (1) compressor motor horsepower is equal to one (1) ton of refrigeration. Equipment used for a purpose other than air conditioning shall be considered on the basis that one (1)

compressor motor horsepower is equal to six-tenths (0.6) ton of refrigeration.

(Code 1957, § 4-217.2; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-63. Permit required.

No installation of air conditioning or refrigeration equipment requiring the use of water shall be made on any premises supplied from the city water supply system until a permit authorizing the installation has been issued by the building supervisor to the installer.

(Code 1957, § 4-217.1; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-64. Installation requirements.

All installations of any individual or collective system of refrigeration or air conditioning equipment in any premises for a single consumer shall be made under the following specifications:

(a) For all installations, the water supply shall be metered.

(b) All installations of refrigeration or air conditioning equipment of six (6) tons and under shall be provided with an automatic water supply regulating device. In no case shall the equipment use in excess of two (2) gallons per minute per ton capacity.

(c) All installations of refrigeration or air conditioning equipment of over six (6) tons shall be equipped with a water conserving device, such as, economizer, evaporative condenser, water cooling tower or similar apparatus, which device shall not consume for makeup purposes in excess of five (5) percent of the consumption that would normally be used without such device.

(d) Each direct water connection to refrigerating or air conditioning unit using water for cooling purposes shall be equipped with a check valve, except in installations where the water supply piping has no contact with the refrigerant. This will be the case where two (2) substantial and independent wall thicknesses of metal separate the refrigerant from the city water supply.

(e) Refrigerating or air conditioning units with a capacity of more than twenty (20) pounds of refrigerant shall be provided with a relief valve installed on the outlay side of the check valve of the water supply connection, such relief valve being set at five (5) pounds above the maximum water pressure at the point of installation.

(Code 1957, § 4-217.3; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-65. Reserved.

DIVISION 5. USE OF WATER FOR HOSES AND SPRINKLING SYSTEMS*

Sec. 25-63. Permit required.

***Editor's note:** Ord. No. 1619/87, § 1, adopted Feb. 24, 1987, repealed former div. 5, §§ 25-70--25-74, in its entirety and enacted new provisions in lieu thereof. Former div. 5 was concerned with similar provisions and derived from the Code of 1957, §§ 7-701--7-702; and Ord. No. 1133/72, §§ 2, 3, adopted July 11, 1972.

Sec. 25-66. Reserved

Editor's note: Section 25-66 pertaining to when sprinkling permitted was repealed by Ord. No. 3052/21 adopted 07-06-2021. The former section derived from Ord. No. 1619/87, § 1, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92

Sec. 25-67. Sprinkling to cease upon sounding of fire alarm.

Anything to the contrary notwithstanding, all sprinkling or watering of lawns or gardens or the use of a hose or sprinkler system shall cease immediately upon the sounding of a fire alarm and shall not be resumed that evening.

(Ord. No. 1619/87, § 1, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-68. Declaration of period when sprinkling prohibited.

Anything to the contrary notwithstanding, the supervisor is authorized to declare a public emergency when the conditions warrant, during which time all sprinkling or watering shall be prohibited.

(Ord. No. 1619/87, § 1, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-69. Water not to encroach on public ways.

The use of a hose, sprinkler or irrigation system with water supplied by the city, or otherwise, so as to cause a spray or flow of water, which spray or flow of water shall extend into the sidewalk or roadway, is hereby prohibited.

(Ord. No. 1619/87, § 1, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-70. Water conservation practice.

Hoses used for washing of vehicles shall be equipped with a shutoff valve that is normally self-closing, and necessitates hand pressure on the valve to permit the flow of water.

(Ord. No. 1619/87, § 1, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-71. Penalty for violation of division.

Each person violating this division shall be guilty of an offense, punishable by a fine of not more than two hundred fifty dollars ($250.00), or imprisonment not exceeding fifteen (15) days, or both, for each offense.

(Ord. No. 1619/87, § 1, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92)

Secs. 25-72--25-75. Reserved.

DIVISION 6. WATER CONSERVATION MEASURES

Sec. 25-76. Purpose.

The purpose of this division shall be to establish mandatory provisions for the conservation of the city's potable water by the utilization of certain plumbing fittings and fixtures.

(Ord. No. 1619/87, § 2, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-77. Scope.

(a) The provisions of this division shall apply to all residential structures, including, but not limited to one- and two-family residences, townhouses, condominiums, multiple residences, hotels and motels that are issued a building permit after the effective date of this division. Section 25-79(b) shall also apply to commercial and industrial structures that are issued a building permit after the effective date of this division.

(b) All additions and alterations to existing residential structures that are issued a building permit after the effective date of this division shall comply with the provisions of this division when the work includes the installation or replacement of plumbing fixtures and fittings specified in this division.

(c) All additions and alterations to existing commercial and industrial structures that are issued a building permit after the effective date of this division shall comply with the provisions of section 25-79(b) when the work includes the installation or replacement of plumbing fixtures and fittings specified in section 25-79(b).

(Ord. No. 1619/87, § 2, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-78. Responsibility of owner, occupant and contractor.

(a) The licensed contractor, owner and/or occupant responsible for the installation of waterflow control plumbing fittings specified in this division shall provide proof, upon request, to the building department certifying that the fittings are in conformance with the maximum waterflow to volumes specified herein. Testing reports by a recognized, independent testing laboratory or reports of tests performed by the manufacturer, using established principles of mechanics, shall be acceptable.

(b) All waterflow control fittings installed as specified herein shall be maintained in a sanitary working condition and free of defects which may reduce the effectiveness of water conservation.

(Ord. No. 1619/87, § 2, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-79. Maximum capacity of plumbing fixtures and fittings.

(a) The potable water system in all residential structures shall be equipped with an

approved pressure regulator valve. The maximum water pressure on the discharge side of the pressure regulator valve shall not exceed fifty (50) pounds per square inch gauge.

(b) Tank-type water closets shall be designed to flush with a maximum of three and five-tenths (3.5) gallons of water.

(c) Showerheads used for the purpose of bathing, lavatory faucets and sink faucets shall have a maximum flow capacity of three (3.0) gallons per minute.

(Ord. No. 1619/87, § 2, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-80. Penalty for violation of division.

Each person violating this division shall be guilty of an offense, punishable by a fine of not more than two hundred fifty dollars ($250.00), or imprisonment not exceeding fifteen (15) days, or both, for each offense.

(Ord. No. 1619/87, § 2, 2-24-87; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-81. Private use of city water hydrants and operation of city water valves.

(a) No person, firm or corporation shall open and/or use any city water hydrant for private use unless and until a permit is first obtained from the department of public works. Any person, firm or corporation that willfully utilizes a city water hydrant without securing a permit will be subject to a fine of one thousand dollars ($1,000.00) per day.

(b) No person, firm or corporation shall open and/or close any city water valve at any time for any reason. The operation of all water valves remains strictly in the purview of the city's water transmission department. Any person, firm or corporation that willfully operates a city water valve will be subject to a fine of one thousand dollars ($1,000.00) per day.

(c) The use of a city water hydrant will require the issuance of a hydrant use permit. Applications for such a permit will be available in the department of public works. The following must be submitted:

1. A fully completed application must be filed with the department of public works;

2. With each application a three hundred fifty dollar ($350.00) nonrefundable permit fee will be collected. A permit will be valid for a period of twenty-one (21) consecutive days from the date of permit issuance.

3. The applicant must provide a deposit of five thousand dollars ($5,000.00) which will be held in escrow by the city until such time as the hydrant use is terminated. Payment must be cash or check. Bonds will not be accepted. Of this amount, two thousand five hundred dollars ($2,500.00) represents security to cover repairs/replacement costs associated with any damage to the hydrant and two thousand five hundred dollars ($2,500.00) will be applied towards prospective water usage and the installation by the water transmission department of an appropriate city

owned hydraulic adapter (check valve).

(d) Once hydrant use has been completed, the permittee shall contact the water transmission department to verify, in writing, that the hydrant is undamaged and fully functional. The permittee can then submit this written certification to the department of public works and request the return of escrow. At that time the appropriate water usage fee will be calculated and deducted from the escrow amount. A water usage fee rate of one hundred dollars ($100.00) for each consecutive day will be applied and will reflect the period from the date of the issuance of the permit to the certification date approved by the water transmission department. A minimum charge of five hundred dollars ($500.00) for water usage will be collected.

(Ord. No. 1667/88, § 1, 6-21-88; Ord. No. 1773/92, § 1, 3-17-92; Ord. No. 1994/04, § 1, 11-3-04)

Sec. 25-82. Serving of water to patrons at restaurants.

(a) The purpose of this section is to conserve scarce supplies of fresh drinking water by reducing one of the many forms of unnecessary waste of water.

(b) All restaurants and eating establishments at which food and/or drink are served shall not supply drinking water to patrons or persons therein, nor place drinking water in containers on tables or counters thereat, unless specifically requested to do so by a patron.

(c) After having supplied drinking water to a patron on the patron's request, the patron's water glass shall not be refilled with water except on request of the patron.

(Ord. No. 1764/91, § 1, 9-3-91; Ord. No. 1773/92, § 1, 3-17-92)

ARTICLE III. SEWAGE AND SEWAGE DISPOSAL

DIVISION 1. GENERALLY

Sec. 25-83. Severability.

If any provision, paragraph, word, section or division of this article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and divisions shall not be affected and shall continue in full force and effect.

(Ord. No. 1556/84, § 1, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-84. Conflict.

All other ordinances and parts of ordinances inconsistent with any part of this article are hereby repealed to the extent of such inconsistency or conflict.

(Ord. No. 1556/84, § 1, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-85. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Act or *the Act* shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

Approval authority shall mean the director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

Authorized representative of significant industrial user may be:

(1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation.

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively.

(3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BOD (biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning at the curbline of the street abutting the building or structure.

Building sewer shall mean the extension from the building drain to the public

sewer or other place of disposal.

Combined sewer shall mean a sewer receiving both surface runoff and sewage.

Commissioner shall mean the commissioner of public works or his authorized agent or representative.

Easement shall mean an acquired legal right for the specific use of land used by others.

Garbage shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Industrial wastes shall mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

Interference shall mean an inhibition or disruption of the POTW treatment plant; its treatment processes or operations; or its sludge processes, use or disposal, which is a cause of or significantly contributes to either a violation of any requirement of the POTW treatment plant's SPDES permit or to the prevention of sewage sludge use or disposal by the POTW treatment plant.

National categorical pretreatment standard or *pretreatment standard* shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users if such standards are thereafter promulgated in accordance with that section.

NYSDEC shall mean the New York State Department of Environmental Conservation or duly authorized official of said agency.

Pass through shall mean the discharge of pollutants through the POTW treatment plant into navigable waters in quantities or concentrations which are a cause of or significantly contribute to a violation of any requirement of the POTW treatment plant's SPDES permit.

pH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pretreatment shall mean the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes, or other means, except as prohibited by 40 CFR, section 403.6(d).

Publicly owned treatment works (POTW) shall mean sewerage works which are owned by the city. For the purposes of this article, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

POTW treatment plant (instead of sewage treatment plant) shall mean that portion of a POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

Public sewer shall mean a sewer, in which all owners of abutting properties have equal rights, which is controlled by public authority.

Sanitary sewer shall mean a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.

Sewerage works shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Sewer shall mean a pipe or conduit for carrying sewage.

Shall is mandatory. *May* is permissive.

Significant industrial user (SIU) shall mean:

(a) All industries subject to promulgated categorical pretreatment standards.

(b) Industries having substantial impact either singly or in combination with other contributing industries on the operation of the treatment works.

(c) Manufacturing industries using, on an annual basis, more than ten thousand (10,000) pounds or one thousand (1,000) gallons of raw material containing priority pollutants/substances of concern and discharging a measurable amount of these pollutants.

(d) Those industries discharging more than five (5) percent of the flow or load carried by the treatment plant receiving the waste.

Slug shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration of flow during normal operation.

SPDES permit shall mean the state pollutant discharge elimination system permit.

Storm drain or *storm sewer* shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling waters.

Suspended solids shall mean solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by laboratory filtering.

USEPA shall mean United States Environmental Protection Agency or duly authorized official of said agency.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(Code 1957, § 7-800; Ord. No. 921, § 1, 4-15-69; Ord. No. 1556/84, § 2, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-86. Use of public sewers required.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area

under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(c) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the treatment and disposal of sewage.

(d) The owner of each house, building or property used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this article, within twenty (20) days of official notice to do so. All connections to the sewerage works of the POTW treatment plant service area, whether within or without the city, shall be made subject to such terms and conditions as the city may prescribe.

(Code 1957, § 7-801; Ord. No. 921, § 1, 4-15-69; Ord. No. 1556/84, § 3, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-87. Disconnection of building sewers.

In the event that a building which is connected to the sanitary sewer is to be abandoned or demolished, or a certificate of occupancy for the building is withdrawn or canceled or revoked, the sewer shall be disconnected at the original point of connection to the city sewer system and the sewer shall be plugged and/or capped in a manner and with a plug that is satisfactory to the supervisor. The sewer shall be disconnected, plugged and inspected prior to any other work at the site. A deposit of two hundred dollars ($200.00) for each street opening will be required to perform this service. This deposit shall be used to defray the cost of restoration. In the event the work costs exceed two hundred dollars ($200.00), the property owner shall be responsible for the payment of such additional sum. In addition to this deposit, the owner or his contractor shall obtain a street opening permit from the department of public works, if street opening is necessary, and shall deposit an amount determined by the commissioner to be sufficient to cover the costs of restoring the pavement. In addition, the owner or his contractor shall, before receiving a street opening permit, obtain a policy of general liability insurance to apply to the worksite, and said policy shall name the City of Long Beach as an additional insured. The owner and his contractor, and each of them, shall bear the sole tort liability for any injury or damage arising out of the street opening and/or sewer work, and shall indemnify the city for any judgment against it arising out of such work, even if the city performs repairs at the site due to the neglect of the owner and/or contractor.

(Code 1957, § 7-802(1); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-88. Installation of sewage lift systems.

When it is necessary to use a sump system and sewage lift to receive the discharge from the waste or soil connection of fixtures, the system shall be arranged to be accessible. If discharged with compressed air, it shall be connected to the house drain on the sewer side of the house trap. A separate trap and fresh air inlet must be provided on the inlet side of sump and a four-inch pipeline continued from drain discharging into sump up to and above the roof, for purposes of ventilation. Relief pipes shall be provided on sewage receptacles of sumps. Traps of fixtures connected to sump systems shall not be vented to vent lines which are used to ventilate traps of fixtures on a gravity system. Sump systems should be entirely separate both as to discharge and venting from the rest of the plumbing system in buildings.

(Code 1957, § 12-401; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-89. Authority of inspectors.

(a) Duly authorized representatives of the city, NYSDEC and USEPA shall be permitted to enter all properties and install appropriate devices as are necessary for the purposes of inspection, observation, measurements, sampling and testing in accordance with the provisions of this article. Where security measures are in force which would require proper identification and clearance before entry into the premises, necessary arrangements shall be made with the security guards so that upon presentation of suitable identification, the commissioner or his representatives will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(b) Duly authorized representatives of the city, NYSDEC and USEPA shall be permitted to enter all private properties through which the city holds a duly negotiated easement, for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewerage works lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(c) Duly authorized representatives of the city shall be permitted to inspect and copy records kept by industries in compliance with the requirements of this article.

(Code 1957, § 7-804; Ord. No. 921, § 1, 4-15-69; Ord. No. 1556/84, § 4, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-90. Violations and enforcement; except significant industrial users.

(a) Any person found to be violating any provision of this article shall be served by the city with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(b) The violation of any provision of this article shall be punishable by a mandatory minimum fine of one hundred dollars ($100.00) and a maximum fine of one thousand dollars ($1,000.00), or by imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment. A separate violation shall be deemed to have been committed for each day or portion thereof during which any violation

shall continue.

(c) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned by the city by reason of the violation.

(Code 1957, § 7-805; Ord. No. 921, § 1, 4-15-69; Ord. No. 1556/84, § 5, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92; Ord. No. 1919/99, § 1, 7-6-99)

Secs. 25-91, 25-92. Reserved.

DIVISION 2. CONNECTIONS

Sec. 25-96. Permit required.

No person not otherwise authorized shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit therefor from the commissioner.

(Code 1957, § 7-802(a); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-97. Sewer permits; application; fees; excavation permits.

(a) There shall be one (1) class of sewer permits for new and rehabilitated buildings. The owner of the premises served or to be served, or his agent, shall make application for a sewer permit on a special form furnished by the building commissioner. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the building commissioner and/or the commissioner of public works. A permit and inspection fee will be required for each building sewer permit. The required fee shall be paid to the city at the time the application is filed. If the street, sidewalk or curb is to be opened or disturbed to install building sewers or connections, the provisions of article II of chapter 23 of this Code shall be applicable.

(b) In addition to the application fees required to be paid for a building sewer permit as set forth in the foregoing subsection (a), each applicant for a building sewer permit for construction or rehabilitation of a building or structure shall pay to the building commissioner an additional sum as a sanitary sewer upgrading fee, as follows:

(1) For residential construction or rehabilitation, five hundred dollars ($500.00) for each residential dwelling unit involved in such construction or rehabilitation.

(2) For commercial and industrial construction or rehabilitation, two hundred dollars ($200.00) for each one thousand (1,000) square feet of floor space, or fraction thereof, plus fifty dollars ($50.00) for each plumbing fixture, with a total minimum fee of five hundred dollars ($500.00) pursuant to this paragraph (b).

(Code 1957, § 7-802(b); Ord. No. 921, § 1, 4-15-69; Ord. No. 1556/84, § 6, 12-4-84; Ord. No. 1590/86, § 1, 5-6-86; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-98. Costs and expenses.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner of the premises to be served. The owner shall indemnify the city against any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Code 1957, § 7-802(c); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-99. Separate connection for each building.

A separate and independent building sewer shall be provided for each building.

(Code 1957, § 7-802(d); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-100. Use of existing building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.

(Code 1957, § 7-802(e); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-101. Installation standards generally.

(a) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(b) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the commissioner before installation.

(Code 1957, § 7-802(f), (i); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-102. Pitch; sewage lifts.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Code 1957, § 7-802(g); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-103. Prohibited connections.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(Code 1957, § 7-802(h); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-104. Notice for inspection; supervision of connection.

A permittee under this division shall notify the commissioner when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under supervision of the superintendent or his representative.

(Code 1957, § 7-802(j); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-105. Protection and closing of excavations.

(a) All excavations for a building sewer installation shall be adequately guarded with trench sheeting, barricades and lights so as to protect the public from hazard. Streets, sidewalks, highways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(b) In the event of personal injury or property damage arising, or allegedly arising, out of the contractor's failure to protect, safeguard and/or restore the excavation, the contractor shall bear the sole liability in tort to the injured party. Any attempt by the city to ameliorate a defective or dangerous condition created by a contractor shall not relieve the contractor of sole tort liability if injury or damage occurs despite the city's intervention. The contractor shall fully indemnify the city for any judgment against it for claims arising out of the contractor's violation of subsection (a) of this section.

(Code 1957, § 7-802(k); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Secs. 25-106--25-110. Reserved.

DIVISION 3. USE OF PUBLIC SEWERS

Sec. 25-111. Manner of disposal of unpolluted water.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling waters, or unpolluted industrial process waters to any sanitary sewer.

(b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the commissioner. Industrial cooling waters or unpolluted process waters shall not be discharged to a storm sewer or natural outlet. Cooling water dischargers to waters of the state must apply to SPDES permits and are subject to state and federal regulations.

(Code 1957, § 7-803(a), (b); Ord. No. 921, § 1, 4-15-69; Ord. No. 1556/84, § 7, 12-4-84;

Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-112. Materials not to be discharged into public sewers.

(a) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas. At no time, shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL).

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the POTW treatment plant.

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewerage works.

(4) Solid or viscous substances in such quantities or of such size as to be capable of causing an interference or obstruction to the flow in sewers, or other interference with the proper operation of the sewerage works such as but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, either whole or ground by garbage grinders.

(5) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius) or heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature of the sewage at the sewage treatment plant exceeds one hundred four (104) degrees Fahrenheit (forty (40) degrees Celsius).

(6) Materials which exert or cause:

a. Unusual biochemical oxygen demand (BOD) or chlorine requirements in such quantities as to constitute a significant load on the POTW treatment plant.

b. Unusual volume of flow or concentration of wastes constituting "slugs" as defined in this article.

(b) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the commissioner that such wastes can harm either the sewer, POTW treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the commissioner will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials or construction of the sewers, nature

of the sewer treatment process, capacity of the POTW treatment plant, degree of treatability of wastes in the POTW treatment plant and other pertinent factors. The substances prohibited are:

(1) Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees Celsius).

(2) Any garbage, shredded or otherwise.

(3) Any waters or wastes containing acid pickling wastes or concentrated plating solutions.

(4) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received at the plant or into the sewer or as discharged from the industry exceed the limits established by any governmental authority or agency. The following are the limits allowed for industrial wastes at the point of entry into the public system:

OBJECTIONABLE SUBSTANCE, LIMITATIONS FOR DISCHARGE TO SANITARY SEWERS	
Concentration Limit Milligrams per Liter Substance(24-Hour Average)	
Aluminum	2.0
Cadmium	0.2
Hex [avalent], chromium	0.1
Total chromium	2.0
Copper	0.4
Iron	4.0
Lead	0.1
Mercury	0.1
Nickel	2.0
Zinc	0.6
Arsenic	0.1
Available chlorine	0.5
Cyanide, free	0.2
Cyanide, complex	0.8
Selenium	0.1
Sulfide	3.0
Barium	2.0
Manganese	2.0
Ammonia nitrogen	To be determined
Gold	0,1
Silver	0.1
Florides	3.0

Sec. 25-112. Materials not to be discharged into public sewers.

(5) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the commissioner as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies having jurisdiction for such discharge to the receiving waters.

(6) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the commissioner in compliance with applicable state or federal regulations.

(7) Any waters or wastes having a pH in excess of 9.5.

(8) Materials which exert or cause:

a. Unusual concentrations of inert suspended solids such as, but not limited to, diatomaceous earth, fuller's earth, lime slurries and lime residues; or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate.

b. Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, and would pass-through to such degree that the POTW treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(10) Any substance creating conditions which violate any statute, rule, regulation or ordinance of any public agency, including EPA.

(11) Each violation of this section shall subject the violator to a fine of not less than two hundred fifty dollars ($250.00) and not more than five thousand dollars ($5,000.00). In addition to the fine, the court shall order the violator to make restitution to the city for the cost of any damage to city property or facilities caused by the violation. In setting the amount of restitution, the court shall rely upon a statement of damages provided by the commissioner of public works.

(Code 1957, § 7-803(c), (d); Ord. No. 921, § 1, 4-15-69; Ord. No. 1403/79, § 1, 9-5-79; Ord. No. 1556/84, § 8, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-113. Reserved.

Editor's note: Section 25-113, discretionary authority of the commissioners, derived from Code 1957, § 7-803(e), and Ord. Nos. 921 and 1556/84, was repealed by Ord. No. 1773/92 in its reenactment of this chapter.

Sec. 25-114. Use of interceptors.

Grease, oil and sand interceptors shall be provided when in the opinion of the city, they are necessary for the proper handling of liquid wastes containing grease in

excessive amounts, or any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the commissioner, and shall be located so as to be readily and easily accessible for cleaning and inspection.

(Code 1957, § 7-803(f); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-115. Maintenance of preliminary treatment and flow-equalizing facilities.

When preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Code 1957, § 7-803(g); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-116. Testing and sampling.

(a) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this division shall be performed in accordance with procedures established pursuant to section 304(g) of the Act and contained in 40 CFR, part 136 and amendments thereto or with any other test procedure approved by the administrator for the USEPA and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required by the commissioner, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be performed in accordance with the techniques approved by the administrator of the EPA.

(b) Where 40 CFR, part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator of the EPA.

(Code 1957, § 7-803(i); Ord. No. 921, § 1, 4-15-69; Ord. No. 1556/84, § 10, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

DIVISION 4. ADMINISTRATION AND ENFORCEMENT

Sec. 25-117. Wastewater contribution permits.

All significant industrial users proposing to connect to or to contribute to the POTW treatment plant shall comply with all applicable federal, state and Nassau County laws and regulations.

(Ord. No. 1556/84, § 11, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-118. Pretreatment.

(a) Significant industrial users shall provide necessary wastewater treatment as required to comply with this Code and shall achieve compliance with all national categorical pretreatment standards within the time limitations as specified by the national pretreatment regulations section 403.5(f). Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this Code. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes. Nothing herein shall relieve the applicant of the duty to comply with all federal, state and Nassau County regulations.

(b) The city shall annually publish in the newspaper used for publication of official city notices a list of the significant industrial users which were not in compliance with any pretreatment requirements or standards at least once during the twelve (12) previous months.

(c) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

(Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-119. Accidental discharges.

(a) Each significant industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the significant industrial user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to all governmental agencies with subject matter jurisdiction for review, and shall be approved by the engineer before construction of the facility. All existing users shall complete such a plan within nine (9) months of the effective date of this division. No significant industrial user who commences contribution to the POTW after the effective date of this division shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the significant industrial user from the responsibility to modify its facility as necessary to meet the requirements of this division. In the case of an accidental discharge, it is the responsibility of the significant industrial user to immediately telephone and notify the city of the incident. The notification shall include the location of the discharge, the type of waste, concentration(s) and volume(s), and corrective action(s) taken.

(b) Within five (5) days following an accidental discharge, the significant industrial user shall submit to the city a detailed written report describing the cause of the discharge and the measures to be taken by the significant industrial user to prevent similar future occurrences. Such notification shall not relieve the

significant industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW or any other damage to person or property; nor shall such notification relieve the significant industrial user of any fines, civil penalties or other liability which may be imposed by this division or other applicable law.

(c) A notice shall be permanently posted on the significant industrial user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-120. Reporting requirements for permittee.

(a) *Compliance Date Report:* Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any significant industrial user subject to pretreatment standards and requirements shall submit to the commissioner a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the user and certified to by a qualified professional engineer licensed in the State of New York.

(b) *Periodic Compliance Reports:*

(1) Any significant industrial user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the sewerage works, shall submit to the commissioner during the months of June and December, unless required more frequently in the pretreatment standard, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in section 25-118(a). At the discretion of the commissioner and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the commissioner may agree to alter the months during which the above reports are to be submitted.

(2) The city may impose mass limitations on significant industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by paragraph (1) of this subsection shall indicate the mass of pollutants regulated by

pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the commissioner, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established pursuant to section 304(g) of the Act and contained in 40 CFR, part 136 and amendments thereto or with any other test procedures approved by the administrator of the USEPA. Sampling shall be performed in accordance with the techniques approved by the administrator of the USEPA. Where 40 CFR, part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator of the USEPA.

(3) If a slug is discharged into the sewerage system, the sewage treatment plant shall be notified immediately. A violation of this section shall subject the offender to liability for all damages resulting therefrom.

(Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-121. Confidential information.

(a) Information and data on a significant industrial user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this division, the state pollutant discharge elimination system (SPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(c) Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the user.

(Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-122. Monitoring facilities.

(a) The city shall require to be provided and operated at the significant industrial user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the industrial user's premises, but the city may, when such a location would be impractical or cause undue hardship on the industrial user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the city.

(Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-123. Harmful contributions.

(a) The city may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the sewage treatment plant or causes the city to violate any condition of its SPDES permit. A forty-eight-hour period shall pass before a suspension or restriction is effective unless an emergency situation arises relating to public health and safety or a significant impairment of the treatment process.

(b) Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the sewage treatment plant system or endangerment to any individuals. The city shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the significant industrial user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within fifteen (15) days of the date of occurrence.

(Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-124. Revocation of permit.

(a) *Conditions:* Any significant industrial user who violates the following conditions of

this Code, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of sections 25-123 and 25-124(b) of this Code:

(1) Failure of a significant industrial user to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the significant industrial user to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the significant industrial user's premises for the purpose of inspection or monitoring; or

(4) Violation of conditions of the permit.

(b) *Show-Cause Hearing:*

(1) The city may order any significant industrial user who causes or allows an unauthorized discharge to enter the POTW to show cause before the city council why the proposed enforcement action should not be taken. A notice shall be served on the significant industrial user specifying the time and place of a hearing to be held by the city council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the significant industrial user to show cause before the city council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The city council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the city to:

a. Issue in the name of the city council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.

b. Take the evidence.

c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.

(3) At any hearing held pursuant to this division, testimony taken must be under oath and recorded stenographically. The transcript, so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(4) After the city council has reviewed the evidence, it may issue an order to the significant industrial user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further

orders and directives as are necessary and appropriate may be issued.

(Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-125. Legal action.

If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this Code, federal or state pretreatment requirements, or any order of the city, the corporation counsel may commence an action for appropriate legal and/or equitable relief in the supreme court of the State of New York or other court of competent jurisdiction of the matter in question. The offender shall be liable to the city for the fair value of its attorney's work, or actual fees incurred, whichever is greater, in any settlement or in any disposition other than a complete success on the merits by the defendant.

(Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-126. Civil penalties.

Any significant industrial user who is found to have violated an order of the city council or who willfully or negligently failed to comply with any provisions of this Code, and the orders, rules, regulations and permits issued hereunder and any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or wastewater contribution permit or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall be fined not less than one thousand dollars ($1,000.00) nor more than five thousand dollars ($5,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Code or the orders, rules, regulations, and permits issued hereunder.

(Ord. No. 1773/92, § 1, 3-17-92)

ARTICLE IV. EXTRATERRITORIAL SERVICES

DIVISION 1. GENERALLY

Sec. 25-127. Application for service.

Owners of all premises outside of the limits of the city who are now using or who may hereafter require the use of the water supply system or the sewerage works of the city, or both, shall make application to the supervisor for such service, which application shall give the following information: The name and address of the applicant; the kind of premises; the size of the plot; the number of apartments; the number of rooms in each apartment; a complete description and number of all plumbing fixtures; and such other information as the commissioner may require.

(Code 1957, § 4-215.1; Ord. No. 1044/71, § 1, 5-4-71; Ord. No. 1316/76, § 2, 5-27-76; Ord. No. 1556/84, § 12, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-128. Appropriate permits to be obtained from the town.

The owner of any premises seeking services under the provisions of this article shall obtain from the proper authorities in the Town of Hempstead all necessary permits required therefrom and shall be responsible for the replacement of any paving or repaving made necessary due to the installation of water or sewer connections and shall hold the city free from liability thereof; he shall maintain and repair the connections at his own cost and expense.

(Code 1957, § 4-215.6; Ord. No. 1556/84, § 13, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-129. Premises ineligible for service.

The city shall not approve or grant any application for water or sewage disposal service, or both, to premises outside the city where water charges or sewer rents, or both, remain unpaid.

(Code 1957, § 4-215.9; Ord. No. 1044/71, § 1, 5-4-71; Ord. No. 1316/76, § 2, 5-27-76; Ord. No. 1556/84, § 14, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-130. Inspection of premises; collection of charges.

Upon receipt of an application for service made pursuant to this article, the city shall cause an inspection to be made of the premises in the same manner as prescribed for inspection of premises located within the city. The report of the inspection shall then be submitted to the commissioner, who shall approve the application on behalf of the city, after having first determined the charges for the premises and having received payment thereof.

(Code 1957, § 4-215.2; Ord. No. 1044/71, § 1, 5-4-71; Ord. No. 1316/76, § 2, 5-27-76; Ord. No. 1556/84, § 15, 12-4-84; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-131. Approval of applications by the city council.

All applications for water and sewage contracts outside of the city shall be approved by the city council.

(Code 1957, § 4-215.13; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-132. Installation of mains and service lines.

The owner of premises to be served under this article shall install at his own cost and expense all water and sewer service mains and lines, and it shall be his duty to maintain and repair the mains and lines at his own cost and expense.

(Code 1957, § 4-215.11; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-133. Acceptance of city's terms and conditions.

The payment by an applicant for services pursuant to this article for water or sewage disposal service, or both, of any and all deposits, fees or changes that are required under this article and which are prerequisite to the approval and granting of the application, shall be sufficient evidence of agreement on the part of the applicant to

conform and comply with all provisions of this Code and other city ordinances and rules and regulations that have been or may hereafter be enacted governing the application.

(Code 1957, § 4-215.3; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-134. Minimum service period; discontinuance.

The minimum period for which applications may be made pursuant to this article shall be one (1) year. An applicant desiring to discontinue either or both water or sewage disposal service shall give sixty (60) days' notice in writing to the city of his intention to discontinue the service. No refund or waiver, however, of any charges paid or unpaid shall be made where service is discontinued at the request of the owner.

(Code 1957, § 4-215.12; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-135. Termination of services by the city.

All contracts heretofore or hereafter made between the city and the owners of premises situated outside of the city for the supply of water and conveyance of sewage shall be subject to termination upon ninety (90) days' notice, as may be required for the best interests of the city. The notice of termination shall be given by registered mail to the last known owner at his last known address, as it appears on the city records, and by publication in the official newspaper.

(Code 1957, § 4-215.13; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-136. City not liable for failure of service.

The failure of either or both the city water supply or sewage disposal system for any reason whatsoever resulting in an interruption of service furnished pursuant to this article, in whole or in part, shall not be construed as a breach of the contract on the part of the city and the city shall incur no liability for said failure.

(Code 1957, § 4-215.10; Ord. No. 1773/92, § 1, 3-17-92)

Secs. 25-137--25-141. Reserved.

DIVISION 2. RATES AND CHARGES

Sec. 25-142. Rates generally.

The charges for city water service upon all premises subject to this article shall be the same as the charges imposed by this chapter for water supplied within the city, as now existing or as from time to time amended.

(Code 1957, § 4-215.4, .5; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-142.1. Reserved.

Editor's note: Section 25-142.1, rates applicable outside the city prior to July 1, 1976, derived from Code 1957, § 4-214.2, and Ord. Nos. 1096/71 and 1276/75 was deleted by Ord. No. 1773/92 in its reenactment of this chapter. See § 25-142.2.

Sec. 25-142.2. Sewer rates applicable outside the city on and after July 1, 1976.

(a) On and after July 1, 1976, real property located outside the city limits using the sewer system of the city shall be charged therefor an amount equal to one hundred twenty-six (126) percent of the water charge that would be charged to each such parcel of real property if it were located within city limits, computed upon the basis of the amount of water actually used or consumed upon each such parcel as recorded by water meters installed for that purpose, or estimated to have been used or consumed upon each such parcel if no meter reading is available, and shall be subject to all of the provisions and conditions of this article. Such charges shall be due and payable when billed and entered on the records of the city and shall be paid within thirty (30) days thereafter. In the event that any such bill shall not be paid within thirty (30) days after it is so billed and entered, a penalty shall be added, charged and collected at the rate of one and one-half (1 1/2) percent for each month or portion of a month from the date it was so billed and entered until such bill shall have been paid. Such charges may be estimated whenever a proper water meter reading is not readily available, as provided by section 121-a.4. of the City Charter.

(b) On and after January 1, 1977, sewer rents or charges at the foregoing rate for real property located outside the city limits using the sewer system of the city shall be due and payable when billed and entered on the records of the city. In the event that any such bill shall not be paid within ninety (90) days after the date it is so billed and entered, a penalty shall be added thereto and charged and collected in an amount equal to ten (10) percent of the total amount of said bill.

(c) On and after October 1, 1979, real property located outside the city limits using the sewer system of the city shall be charged therefor an amount equal to one hundred twelve (112) percent of the water charge that would be charged to each such parcel of real property if it were located within city limits, computed upon the basis of the amount of water actually used or consumed upon each such parcel as recorded by water meters installed for that purpose, or estimated to have been used or consumed upon each such parcel if no meter reading is readily available, and bills shall be rendered on the basis of said rate on and after January 1, 1980, and shall be subject to all of the provisions and conditions of this article. Such charges shall be due and payable, and shall be paid, and penalties shall be added, charged and collected as provided in this section for amounts charged immediately before October 1, 1979.

(d) On and after May 1, 1992, real property located outside the city limits using the sewer system of the city shall be charged therefor an amount equal to one hundred fifty (150) percent of the water charge that would be charged to each such parcel of real property if it were located within city limits, computed upon the basis of the amount of water actually used or consumed upon each such parcel as recorded by water meters installed for that purpose, or estimated to have been used or consumed upon each such parcel if no meter reading is available, and shall be subject to all of the provisions and conditions of this article. Such charges shall be due and payable when billed and entered on the records of the city and shall be payable on the last business day of the month in which the bill is mailed. In the event that any such bill shall be not paid by the last business day of the month in which the bill is mailed, a penalty shall be added, charged and

collected at the rate of one and one-half (1 1/2) percent per month or portion thereof from the date of billing until such bill is paid. A bill shall not be considered paid until payment is actually received by the supervisor. A bill shall be considered to have been mailed by the supervisor as of the date indicated in the records of the supervisor to be the date of mailing. Charges may be estimated by the supervisor whenever a proper water meter reading is not readily available, as provided in section 121-a.4. of the City Charter.

(Ord. No. 1316/76, § 3, 5-27-76; Ord. No. 1330/76, § 2, 9-21-76; Ord. No. 1332/76, § 2, 12-7-76; Ord. No. 1407/79, § 1, 11-27-79; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-143. Bills for estimated water and sewer charges.

Whenever a proper water meter reading is not readily available for any period of time, the supervisor may estimate the quantity of water used and/or to be used in or upon any premises, and water and/or sewer rents and charges may be computed on the basis of such estimate, as provided by section 121-a.4. of the City Charter, and the bill for such charges may be rendered and entered either at the beginning or at the end of the period for which such charges are so estimated.

(Ord. No. 1316/76, § 4, 5-27-76; Ord. No. 1773/92, § 1, 3-17-92)

Editor's note: Ord. No. 1316/76, § 4, adopted May 27, 1976, repealed former § 25-143 which had pertained to the prepayment of annual charges and added a new § 25-143 as herein set out. Former § 25-143 had been derived from Code 1957, § 4-215.6.

Sec. 25-144. Reserved.

Editor's note: Section 25-144, connection charges, derived from Code 1957, § 4-215.6, and Ord. Nos. 1044/71 and 1316/76, was repealed by Ord. No. 1773/92 in its reenactment of this chapter.

Sec. 25-145. Reserved.

Editor's note: Ord. No. 1316/76, § 6, adopted May 27, 1976, repealed § 25-145, which had pertained to the time of payment of service charges and had been derived from Code 1957, § 5-215.7.

Sec. 25-146. Person responsible for unpaid charges; enforcement.

The applicant for services pursuant to this article shall be responsible for the payment of any unpaid charges for services supplied to such premises outside the city and the city shall enforce collection thereof through a court of competent jurisdiction. If the city must resort to court action for collection, the defendant shall be obligated to pay liquidated damages to the city in the amount of two hundred fifty dollars ($250.00) as compensation for the costs and efforts of collection. The court shall add said sum to any other award made in favor of the city.

(Code 1957, § 4-215.8; Ord. No. 1773/92, § 1, 3-17-92)

Sec. 25-147. Installation of testing facilities.

When required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall, within twenty (20) days of official notice to do so, install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. A manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Code 1957, § 7-803(h); Ord. No. 921, § 1, 4-15-69; Ord. No. 1773/92, § 1, 3-17-92)

ARTICLE V. CONTROL OF BACKFLOW AND CROSS-CONNECTIONS

DIVISION 1. GENERALLY

Sec. 25-148. Responsibility of the city.

The City of Long Beach shall inspect the plumbing in every building or premises in the city at prescribed intervals to ensure that the plumbing system was installed and is maintained in such a manner as to safeguard the municipal potable water supply system. The city shall notify or cause to be notified in writing the owner or authorized agent of the owner of any such building or premises, to correct, within a time set by the city, any plumbing installed or existing, contrary to or in violation of this article, and which in its judgment may therefore permit the pollution of the municipal water supply, or otherwise adversely affect the public health.

(Ord. No. 1797/93, § 1, 2-2-93)

Sec. 25-149. Inspection.

The city shall have the right of entry into any premises during reasonable hours for the purpose of making an evaluation of the premises provided that with respect to the inspection of any single-family dwelling consent to such inspection shall first be obtained from a person of suitable age and discretion therein or in control thereof.

(Ord. No. 1797/93, § 1, 2-2-93)

Sec. 25-150. Statutory authority.

Chapter I, title 10, New York State Sanitary Code, part 5, Drinking Water Supplies, § 5-1.31, Cross Connection Control -- (a) The supplier of water shall protect the public water system by containing potential contamination within the premises of the user in the following manner:

(1) By requiring an approved air gap, reduced pressure zone device, double check valve assembly or equivalent protective device consistent with the degree of hazard posed by any service connection;

(2) By requiring the users of such connections to submit plans for the installation of protective devices to the supplier of water and/or the state for approval; and

(3) By assuring that all protective devices be tested at least annually. Records of such shall be made available to and maintained by the supplier of water. Such tests shall be conducted by certified backflow prevention device testers pursuant to the following requirements.

(Ord. No. 1797/93, § 1, 2-2-93)

Sec. 25-151. Definitions.

When used in this article, unless otherwise indicated, the following words shall

have the following meanings:

Acceptable backflow prevention device is an air gap, reduced pressure zone device or double check valve assembly, approved by the New York State Department of Health, to contain existing or potential contamination within a consumer's premises.

Aesthetically objectionable facility is one in which substances are present which, if introduced into the public water supply system, could be a nuisance to other water customers, but would not adversely affect human health. Typical examples of such substances are: foodgrade dyes, hot water, stagnant water from fire lines in which no chemical additives are used, etc.

Air gap separation means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank plumbing fixture or other device and the flood level rim of the receptacle. The differential distance shall be at least double the diameter of the supply pipe. In no case shall the air gap be less than one (1) inch.

Backflow means a flow condition, induced by a differential in pressure, that causes the flow of water or other liquids and/or gases into the distribution pipes of a public water supply from any source other than the intended source.

Backpressure means the resulting backflow of contamination, polluted, or otherwise unacceptable quality water from a plumbing fixture or other consumer source(s) into a public water supply system due to a greater pressure within the consumer's water system.

Backflow preventer means a device or means to prevent backflow.

Backsiphonage means the backflow of contaminated or polluted water, or water of questionable quality from a plumbing fixture or other consumer source(s) into a public water supply system main due to a temporary negative or subatmospheric pressure within the public water supply system.

Containment shall mean prevention of backflow or backsiphonage of potential contamination from a premise served by the District supply, by installation of a backflow prevention device, approved by the New York State Health Department and the city, at a location on the water service line feeding the premises. The installation of the meter and backflow prevention device where the service line enters the premises shall comply with the standards established by the Building Department of the City of Long Beach.

Contamination means the presence in water of a substance that tends to degrade its quality.

Cross-connection means any physical connection between potable water supply and any waste-pipe, sewer, drain, or any unapproved source or system. Furthermore, it is any potable water supply outlet which is submerged or can be submerged in waste water and/or other source of contamination. See *Backflow* and *Backsiphonage.*

Customer means a water user served by a public water system.

Customer's water system means the piping used to convey water supplied by a public water supply system throughout a customer's facility or premises.

Double check valve (DCV) assembly means two (2) single independently acting check valves, including tightly closing shutoff valves located at each end of the assembly

and suitable connections for testing the watertightness of each check valve.

Public water supply system means a supplier of water including the source, treatment works, transmission mains, distribution system and storage facilities serving the public.

Reduced pressure zone (RPZ) device means a minimum of two (2) independently acting check valves together with an automatically operated pressure differential relief valve located between the two (2) check valves. During normal flow and at the cessation of normal flow, the pressure between these two (2) checks shall be less than upstream (supply) pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test clocks.

Water, nonpotable means water which is not safe for human consumption or which is of questionable potability.

Water, potable means water which complies with the provisions for drinking water standards set forth in the official compilation of Codes, Rules and Regulations adopted by the New York State Commissioner of Health.

(Ord. No. 1797/93, § 1, 2-2-93)

DIVISION 2. TECHNICAL REQUIREMENTS

Sec. 25-152. General.

A potable water supply system shall be designed, installed and maintained in such manner as to prevent contamination from nonpotable water, liquids, solids, or gases from being introduced into the potable water supply through cross-connections or any other piping connections to the system.

(Ord. No. 1797/93, § 1, 2-2-93)

Sec. 25-153. Cross-connections.

Between the consumer's water system in premises served by the City of Long Beach which are rated aesthetically objectionable and/or as hazardous are prohibited except where an approved backflow prevention device has been installed to prevent contamination of the potable system by containment. The city shall determine the degree of hazard posed by the service connection to the premises and shall determine the type of backflow prevention device that is required to be installed.

(Ord. No. 1797/93, § 1, 2-2-93)

Sec. 25-154. Individual water supplies.

Cross-connections between an individual water supply and a potable public supply shall not be made unless specifically approved in writing by the City of Long Beach and the department of health.

(Ord. No. 1797/93, § 1, 2-2-93)

Sec. 25-155. Water supply connections.

An approved reduced pressure zone (RPZ) backflow prevention device or a double valve (DVC) backflow device, as determined by the city, shall be installed on all new water supply connections supplying water to any residential premises, any industrial, commercial or other nonresidential structure connected to the potable water system. In addition to the above, an approved backflow prevention device, as determined by the city, shall be installed on any existing water supply connection supplying water to:

(a) An irrigation and/or exterior sprinkler system.

(b) Premises with a solar heating system.

(c) An industrial, institutional, commercial or other nonresidential structure which is connected to the potable water system of the City of Long Beach and which is determined to be in need of a device.

If, in the city's determination, the need exists for installation of a backflow prevention device, plans and specifications for installation of same are to be received by the City of Long Beach Building Department no later than thirty (30) days subsequent to the notification of deficiency.

(Ord. No. 1797/93, § 1, 2-2-93)

DIVISION 3. INSTALLATION

Sec. 25-156. Approval of backflow prevention devices.

Before any device for the prevention of backflow or backsiphonage by containment is installed, the consumer (applicant) who proposes to install a backflow prevention device must obtain approval for the installation from the city and from the county health department. Approval procedure is as follows:

(a) The applicant files five (5) copies of the New York State Health Department Form DOH 347, together with five (5) copies of the plans and specifications showing the installation of the proposed containment device with the city building department. The New York State Education Law pertaining to Professional Engineers and Land Surveyors, Art. 145ff/Sec. 7200 requires that a project involving the safeguarding of life, health and property must be designed by a registered professional engineer or registered architect of the State of New York. All plans and specifications are to have the engineer's or registered architect's seal and signature affixed thereto. Copies of Form DOH 347, Plans and Specifications for installation of containment devices and a list of devices acceptable to the New York Health Department for containment control are available in the city building department. A city plumbing permit application filed by a city licensed plumber with the appropriate fee to the city, as follows: a fee of sixty dollars ($60.00) for devices up to two (2) inches; a fee of one hundred dollars ($100.00) for devices up to four (4) inches; a fee of one hundred fifty dollars ($150.00) for devices over four

(4) inches.

(b) After review and approval of the application, plans and specifications by the City of Long Beach, the city shall transmit four (4) copies of the application, plans and specifications to the Nassau County Health Department for review and approval.

(c) After review and approval of the application, plans and specifications by the Nassau County Health Department, the health department will send a certificate of approval (Form GEN 237) together with the application, plans and specifications, to the owner of the premises, the City of Long Beach, and the engineer or architect.

(d) The applicant shall have the containment device installed by a licensed plumber in accordance with the approved plans and specifications.

(e) After completion of work, a person qualified by the Commissioner of Health, Nassau County, to inspect and test backflow prevention assemblies will make the initial inspection of the device in accordance with the manufacturer's instructions and shall submit a report of the test on New York State Health Department Form DOH 1013 to the city within thirty (30) days of installation of the device. The city's representative will inspect the final installation for compliance with the plans and specifications and submit Form DOH 1013 to the Nassau County Health Department.

(Ord. No. 1797/93, § 1, 2-2-93; Ord. No. 1982/04, § 1, 5-4-04)

Sec. 25-157. Guide for installation of physical connection for control devices.

TABLE INSET:

Conditions:			Control Devices:		
a)	Any physical connection which may be subject to backpressure involving:		A.G.	R.P.Z.	D.C.V.
	a.	Hazardous substances*	X	X	
	b.	Non-hazardous substances**	X	X	X
b)	Any physical connection not subject to backpressure involving:				
	a.	Hazardous substances*	X	X	
	b.	Non-hazardous substances**	X	X	X

TABLE INSET:

A.G	=	Air Gap
R.P.Z.	=	Reduced pressure zone device
D.C.V.	=	Double check valve assembly

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* A hazardous substance includes sewage, lethal chemicals or other substances, which is introduced into the public water system would or may endanger the health of the consumer.

** A nonhazardous substance would not endanger the health of the consumer but would be a nuisance if introduced into the public water system.

The City of Long Beach Building Department shall determine the condition of the connection in accordance with the categories listed above and shall determine what type of control device is required. Only approved devices shall be utilized.

(Ord. No. 1797/93, § 1, 2-2-93)

DIVISION 4. MAINTENANCE REQUIREMENTS

Sec. 25-158. General requirements.

It shall be the responsibility of owners of buildings and premises to perform required testing and to maintain all backflow prevention devices within their building or on their premises in good working order and to install no piping or other arrangements for the purpose of bypassing the backflow devices.

(Ord. No. 1797/93, § 1, 2-2-93)

Sec. 25-159. Testing and repair of backflow prevention devices.

Devices installed for the purpose of containment shall be tested annually by a person (tester) qualified by the New York State Health Department. The tester shall file a report of the test on New York Health Department Form DOH-1013 and submit same to the City of Long Beach Building Department within thirty (30) days of conducting the test. Any device which fails a test shall be repaired and retested within a thirty-day period.

(Ord. No. 1797/93, § 1, 2-2-93)

DIVISION 5. VIOLATIONS AND PENALTIES

Sec. 25-160. Notification of violation.

The City of Long Beach shall notify the owner or authorized agent of the owner of the building or premises in which there is found a violation of this article, of such violation. As per Section 1.6(2) of this ordinance, the owner shall correct or remove said violation within thirty (30) days of being notified of same. Upon failure of the owner to have the violation corrected by the end of the specified time period, the city may, if in its judgment an imminent health hazard exists, cause the water service to the building or premises to be terminated and/or recommend such additional fines or penalties to be invoked as herein may be provided.

(Ord. No. 1797/93, § 1, 2-2-93)

Editor's note: There is no § 1.6(2) in the ordinance from which this article is derived. Reference presumably should be to § 25-159.

Sec. 25-161. Fines and penalties.

The owner or authorized agent of the owner responsible for the maintenance of the plumbing system in the building who knowingly permits a violation to remain uncorrected after the expiration of the time set by section 1.6(2) shall, upon conviction thereof by the court, be required to pay a fine of not more than two hundred fifty dollars ($250.00) for each violation. Each day of failure to comply with the requirements of this article after the specified time provided under section 25-159 shall constitute a separate violation.

(Ord. No. 1797/93, § 1, 2-2-93)

Editor's note: There is no § 1.6(2) in the ordinance from which this article is derived. Reference presumably should be to § 25-159.

ARTICLE VI. STORMWATER MANAGEMENT.

DIVISION 1. GENERAL PROVISIONS

Sec. 25-170. Findings of fact.

It is hereby determined that:

(a) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;

(b) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;

(c) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;

(d) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;

(e) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;

(f) Substantial economic losses can result from these adverse impacts on the waters of the City of Long Beach;

(g) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;

(h) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-171. Purpose.

The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and

welfare of the public residing within this jurisdiction and to conform to the substantive requirements of the New York State Pollutant Discharge Elimination System (SPDES) and the National Pollutant Discharge Elimination System (NPDES). This article seeks to meet those purposes by achieving the following objectives:

(a) Meet the requirements of minimum measures 4 and 5 of the SPDES general permit for stormwater discharges from municipal separate stormwater sewer systems (MS4s), permit no. GP-02-02 or as amended or revised;

(b) Require land development activities to conform to SPDES general permit for construction activities GP-02-01 or as amended or revised;

(c) Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;

(d) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;

(e) Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and

(f) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-172. Statutory authority.

In accordance with article 2 of the General City Law of the State of New York, the City Council of the City of Long Beach has the authority to regulate by ordinance any matter within the powers of the city including enacting ordinances for the purpose of promoting the public health and welfare and securing safety from flooding. The city council may include in any such ordinance provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such article.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-173. Applicability.

(a) This article shall be applicable to all land development activities affecting forty-three thousand five hundred sixty (43,560) square feet (one (1) acre) or more of land as defined in this article, section 25-175.

(b) The commissioners of the building department and public works shall be designated as the co-stormwater management officers. The stormwater management officers or duly authorized deputies, agents, or representatives, shall accept all stormwater pollution prevention plans and may (1) review the plans; (2) forward the plans to another department for review; (3) engage the

services of a professional engineer to review the plans, specifications and related documents; or (4) accept the certification of a professional engineer or a certified professional in erosion and sediment control (CPESC), that the plans conform to the requirements of this article.

(c) All land development activities as defined in section 25-175 conditioned upon review and approval by the building department and/or public works department shall be subject to the regulations and standards contained in this article.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-174. Exemptions.

The following activities may be exempt from review under this article:

(a) Routine maintenance activities that are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility;

(b) Repairs or revisions to any stormwater management practice or facility deemed necessary by the stormwater management officer;

(c) Land development activities approved by the city council and/or zoning board of appeals on or before the effective date of this article;

(d) Land development activities for which a building permit has been applied for on or before the effective date of this article;

(e) Installation of fence, sign, telephone and electric poles and other kinds of posts or poles;

(f) Emergency activity immediately necessary to protect life, property or natural resources;

(g) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family; and

(h) Landscaping and horticultural activities in connection with an existing structure.

(Ord. No. 2020/07, § 1, 8-21-07)

DIVISION 2. STORMWATER CONTROL

Sec. 25-175. Definitions.

The terms used in this article or in documents prepared or reviewed under this article shall have the meaning as set forth in this section.

Applicant. A property owner or agent of a property owner who has filed an application for a land development activity.

Building. A structure wholly or partially enclosed within exterior or party walls and a roof, affording shelter to persons, animals or property.

Clearing. Any activity that removes the vegetative surface cover.

Dedication. The deliberate appropriation of property by its owner for general public use.

Design manual. "The New York State Stormwater Management Design Manual", most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

Developer. A person or entity who undertakes land development activities.

Erosion control manual. The most recent version of the "New York Standards and Specifications for Erosion and Sediment Control Manual", commonly known as the "Blue Book".

Grading. Excavation or fill of material, including the resulting conditions thereof.

Impervious cover. Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavements, sidewalks, driveways, etc.).

Industrial stormwater permit. A state pollutant discharge elimination system permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration. The process of percolating stormwater into the subsoil.

Land development activity. Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than forty-three thousand five hundred sixty (43,560) square feet (one (1) acre), or activities disturbing less than forty-three thousand five hundred sixty (43,560) square feet of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

Landowner. The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Maintenance agreement. A legally recorded document that acts as a property deed restriction and which provides for long-term maintenance of stormwater management practices.

Nonpoint source pollution. Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, construction, subsurface disposal and urban runoff sources.

Phasing. Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

Pollutant of concern. Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

Project. Land development activity.

Recharge. The replenishment of underground water reserves.

Sediment control. Measures that prevent eroded sediment from leaving the site.

Sensitive areas. Swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES, general permit for construction activities GP-02-01. A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one (1) or more acres of land (forty-three thousand five hundred sixty (43,560) square feet or more).

SPDES, general permit for stormwater discharges from municipal separate stormwater sewer systems GP-02-02. A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

Stabilization. The use of practices that prevent exposed soil from eroding.

Stop work order. An order issued which requires that all construction activity on a site be stopped.

Stormwater. Rainwater, surface runoff, snowmelt and drainage.

Stormwater hotspot. A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

Stormwater management. The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

Stormwater management facility. One (1) or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

Stormwater management officer. The commissioners of the building department and public works shall be designated as co-stormwater management officers. The stormwater management officer or duly authorized deputies, agents, or representatives, are designated by the city to accept and review stormwater pollution prevention plans and inspect stormwater management practices.

Stormwater management practices (SMPs). Either structural or nonstructural measures that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

Stormwater pollution prevention plan (SWPPP). A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Stormwater runoff. Flow on the surface of the ground, resulting from precipitation.

Watercourse. A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Waterway. A channel that directs surface runoff to a watercourse or to the public storm drain.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-175. Definitions.

Sec. 25-176. Stormwater pollution prevention plans.

(a) *Stormwater pollution prevention plan requirement.* No application for approval of a land development activity shall be reviewed until the building department has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this article.

(b) *Contents of stormwater pollution prevention plans.*

(1) All SWPPPs shall provide the following background information and erosion and sediment controls:

a. Background information about the scope of the project, including location, type and size of project;

b. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s); the site map should be at a scale no smaller than one (1) inch equals twenty (20) feet;

c. Description of the soil(s) present at the site;

d. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance that is inconsistent with the "New York Standards and Specifications for Erosion and Sediment Control" (erosion control manual);

e. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

f. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater and spill-prevention and response;

g. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;

h. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

i. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and

sizing of any temporary sediment basins;

j. Temporary practices that will be converted to permanent control measures;

k. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

l. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

m. Name(s) of the receiving water(s);

n. Delineation of SWPPP implementation responsibilities for each part of the site;

o. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

p. Any existing data that describes the stormwater runoff at the site;

q. Land development activities as defined in section 25-175 of this article and meeting condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in subsection 25-176 (b)(2) below as applicable:

(2) *Condition A.* Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B. Stormwater runoff from land development activities disturbing five (5) or more acres (two hundred seventeen thousand eight hundred (217,800) square feet).

Condition C. Stormwater runoff from land development activity disturbing between one (1) acre (43,560 square feet) and five (5) acres (two hundred seventeen thousand eight hundred (217,800) square feet) of land during the course of the project, exclusive of the construction of single or two (2) family residences.

(3) SWPPP requirements for condition A, B and C:

a. All information in subsection 25-176(b)(1) of this article;

b. Description of each post-construction stormwater management practice;

c. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;

d. Hydrologic and hydraulic analysis for all structural components of

the stormwater management system for the applicable design storms;

e. Comparison of post-development stormwater runoff conditions with pre-development conditions;

f. Dimensions, material specifications and installation details for each post-construction stormwater management practice;

g. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;

h. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;

i. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with section 25-178 of this article;

j. For condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this article.

(c) *Other environmental permits.* The applicant shall assure that all other applicable permits have been submitted for the land development activity prior to approval of the final stormwater design plan.

(d) *Contractor certification.*

(1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

(2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(3) The certification statement(s) shall become part of the SWPPP for the land development activity.

(e) *Copy of SWPPP retained on-site.* A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization. Failure to comply will be deemed a violation.

Sec. 25-176. Stormwater pollution prevention plans.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-177. Performance and design criteria for stormwater management and erosion and sediment control.

All land development activities shall be subject to the following performance and design criteria:

(a) *Technical standards.* For the purpose of this article, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article:

a. *The New York State Stormwater Management Design Manual* (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the design manual).

b. *New York Standards and Specifications for Erosion and Sediment Control*, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the erosion control manual).

(b) *Equivalence to technical standards.* Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in subsection 25-177(a) and the SWPPP shall be prepared by a licensed professional.

(c) *Water quality standards.* Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-178. Maintenance, inspection and repair of stormwater facilities.

(a) *Maintenance and inspection during construction.*

(1) The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

(2) For land development activities as defined in section 25-175 of this article and meeting condition A, B or C in subsection 25-176(b)(2), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven (7) days and within twenty-four (24) hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be

maintained in a site log book.

(b) *Maintenance easement(s).* Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the City of Long Beach to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the county clerk.

(c) *Maintenance after construction.* The owner or operator of permanent stormwater management practices installed in accordance with this article shall ensure they are operated and maintained to achieve the goals of this article. Proper operation and maintenance also includes as a minimum, the following:

(1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.

(2) Written procedures for operation and maintenance and training new maintenance personnel.

(3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with subsection 25-177(c).

(d) *Maintenance agreements.* The stormwater management officer shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the county clerk as a deed restriction on the property prior to final plan approval. The City of Long Beach in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-179. Severability.

Severability. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this article shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this article.

(Ord. No. 2020/07, § 1, 8-21-07)

DIVISION 3. ADMINISTRATION AND ENFORCEMENT

Sec. 25-180. Construction inspection.

(a) *Erosion and sediment control inspection.* The stormwater management officer may require such inspections as necessary to determine compliance with this article and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this article and the stormwater pollution prevention plan (SWPPP) as approved.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the stormwater management officer.

(b) *Stormwater management practice inspections.* All applicants are required to submit "as built" plans for any stormwater management practices (SMPs) located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer or certified professional in erosion and sediment control (CPESC).

(c) *Inspection of stormwater facilities after project completion.* Inspection programs shall be established on any reasonable basis, including, but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

(d) *Submission of reports.* The stormwater management officer may require monitoring and reporting from entities subject to this article as are necessary to determine compliance with this article.

(e) *Right-of-entry for inspection.* When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the stormwater management officer the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in subsection 25-180(c).

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-181. Performance guarantee.

(a) *Construction completion guarantee.* In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the stormwater management officer in the approval of the stormwater pollution prevention plan, the stormwater management officer may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the City of Long Beach as the beneficiary. The security shall be in an amount to be determined by the stormwater management officer based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the city, provided that such period shall not be less than one (1) year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one (1) year inspection has been conducted and the facilities have been found to be acceptable to the stormwater management. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

(b) *Maintenance guarantee.* Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the City of Long Beach with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the City of Long Beach may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

(c) *Recordkeeping.* The City of Long Beach may require entities subject to this ordinance to maintain records demonstrating compliance with this article.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-182. Enforcement and penalties.

(a) *Notice of violation.* When the City of Long Beach determines that a land development activity is not being carried out in accordance with the requirements of this article, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

(1) The name and address of the landowner, developer or applicant;

(2) The address when available or a description of the building, structure or land upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to bring the land

development activity into compliance with this article and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

(b) *Stop work orders.* The City of Long Beach may issue a stop work order for violations of this article. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the City of Long Beach confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article. Any land development activity that is commenced or is conducted contrary to this article, may be restrained by injunction or otherwise abated in a manner provided by law.

(c) *Penalties.* Any person violating this article shall be subject to a penalty of up to ten thousand dollars ($10,000.00) for each such offense, or imprisonment for not more than fifteen (15) days, or both. Each day's continued violation shall constitute a separate additional violation.

(d) *Withholding of certificate of occupancy.* If any building or land development activity is installed or conducted in violation of this article the stormwater management officer may prevent the occupancy of said building or land.

(e) *Restoration of lands.* Any violator may be required to restore land to its undisturbed condition, including adjoining properties, utilities and both subsurface and surface water ways. In the event that restoration is not undertaken within a reasonable time after notice, the City of Long Beach may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-183. Fees for services.

The City of Long Beach may require any person undertaking land development activities regulated by this article to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the city or performed by a third party for the city.

(Ord. No. 2020/07, § 1, 8-21-07)

Secs. 25-184--25-189. Reserved.

ARTICLE VII. PROHIBITION OF ILLICIT DISCHARGES, ACTIVITIES, AND CONNECTIONS TO SEPARATE STORM SEWER SYSYTEM.

Sec. 25-190. Legislative intent.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the city, through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the state pollutant discharge elimination system (SPDES) general permit for MS4s. The objectives of this article are:

a. To meet the requirements of the state pollutant discharge elimination system (SPDES) general permit for storm water discharges from MS4s, permit no. GP-02-02 or as amended or revised;

b. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process, or discharge non-stormwater wastes;

c. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this aticle; and

d. To promote public awareness of the hazards involved in the improper discharge of non-stormwater wastes into the MS4.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-191. Authority.

This article is adopted under authority of New York State General City Law, the New York State Pollutant Discharge Elimination System permit GP-02-02 issued pursuant to article 17, titles Seven and Eight, and article 70 of the New York State Environmental Conservation Law (ECL), the federal environmental protection agency regulations, and the federal clean water act (CWA).

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-192. Applicability.

This article shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency. All laws, local laws, and ordinances in conflict with the provisions of this article are hereby superseded to the extent of such conflict and to such extent only.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-193. Definitions.

Whenever used in this article, unless a different meaning is stated in a definition

applicable to only a portion of this article, the following terms will have meanings set forth below:

Authorized enforcement agencies. The U.S. Environmental Protection Agency, the New York State DEC and any department of the City of Long Beach or employees thereof designated to enforce this article.

Best management practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction activity. Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Hazardous materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including, but not limited to:

(1) Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in section 25-195 of this article.

Industrial activity. Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

Municipal separate storm sewer system (MS4). A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

(1) Owned or operated by the City of Long Beach;

(2) Designed or used for collecting or conveying storm water;

(3) Which is not a combined sewer; and

(4) Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

Non-stormwater discharge. Any discharge to the MS4 that is not composed entirely of stormwater.

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, soils from runoff, oils, solvents, grease, paints, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; and other contaminants which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Special conditions:

(1) *Discharge compliance with water quality standards.* The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

(2) *303(d) listed waters.* The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.

(3) *Total maximum daily load (tmdl) strategy.* The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

State pollutant discharge elimination system (SPDES) stormwater discharge permit. a permit issued by the New York State Department of Environmental Conservation that authorizes the discharge of pollutants to waters of the state.

Stormwater. Rainwater, surface runoff, snow melt and drainage.

Stormwater management officer (SMO). The commissioners of the building department and public works department shall be designated as the co-stormwater

management officers (SMO) who shall administer, implement, and enforce the provisions of this article. The stormwater management officer or duly authorized deputies, agents, or representatives, are designated by the city to accept and review stormwater pollution prevention plans, forward the plans to the applicable department and inspect stormwater management practices.

303(d) list. A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the DEC as required by section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

Total maximum daily load (TMDL). The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

Wastewater. Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-194. Responsibility for administration.

The commissioners of the building department and public works shall be designated as the co-stormwater management officers (SMO) who shall administer, implement, and enforce the provisions of this article. Such powers granted or duties imposed upon the authorized enforcement official may be delegated by the SMO to duly authorized deputies, agents, or representatives.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-195. Discharge prohibitions.

a. *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in subsection 25-195(a)(1). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this ordinance, unless the NYSDEC or the City of Long Beach has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

(2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this article.

(3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

(4) The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the NYSDEC, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order.

(5) Other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

b. *Prohibition of illicit connections.*

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-196. Prohibition against activities contaminating stormwater.

Activities that are subject to the requirements of this section are those types of activities that:

(1) Cause or contribute to a violation of the municipality's MS4 SPDES permit;

(2) Cause or contribute to the city being subject to the special conditions as defined in section 25-193 (definitions) of this article; or

(3) Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the city's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the city's MS4 SPDES permit authorization.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-197. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

Best management practices. Where the SMO has identified illicit discharges as defined in section 25-193 or activities contaminating stormwater as defined in section 25-193, the city may require implementation of best management practices (BMPs) to control those illicit discharges and activities, as follows:

(1) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs;

(2) Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge as defined in section 25-193 or an activity contaminating stormwater as defined in section 25-196, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4;

(3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-198. Suspension of access to MS4.

a. *Illicit discharges in emergency situations.* The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

b. *Suspension due to the detection of illicit discharge.* Any person discharging to the municipality's MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefore. The violator may petition the SMO for reconsideration. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the SMO.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-199. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city prior to the allowing of discharges to the MS4.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-200. Access and monitoring of discharges.

a. *Applicability.* This section applies to all facilities that the SMO must inspect to enforce any provision of this article, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this ordinance.

b. *Access to facilities.*

(1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.

(2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this article.

(3) The city shall have the right to set up on any facility subject to this article such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The city has the right to require the facilities subject to this article to install monitoring equipment as is reasonably necessary to determine compliance with this article. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Unreasonable delays in allowing the municipality access to a facility subject to this ordinance is a violation of this article. A person who is the operator of a facility subject to this article commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this article.

(6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-201. Notification of spills.

Notwithstanding other requirements of this article, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-202. Enforcement.

a. *Notice of violation.* When the city's SMO finds that a person has violated a prohibition or failed to meet a requirement of this article, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

   (1) The elimination of illicit connections or discharges;

   (2) That violating discharges, practices, or operations shall cease and desist;

   (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

   (4) The performance of monitoring, analyses, and reporting;

   (5) Payment of a fine; and

   (6) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

b. Any person violating this article shall be subject to a penalty of up to ten thousand ($10,000.00) dollars for each such offense, or imprisonment for not more than fifteen (15) days, or both. Each day's continued violation shall constitute a separate additional violation.

c. Any violator may be required to restore land to its undisturbed condition,

including adjoining properties, utilities and both subsurface and surface water ways. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-203. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-204. Alternative remedies.

(a) Where a person has violated a provision of this article, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the stormwater management officer, where:

(1) The violation was unintentional;

(2) The violator has no history of previous violations of this article;

(3) Environmental damage was minimal;

(4) Violator acted quickly to remedy violation; or

(5) Violator cooperated in investigation and resolution.

(b) Alternative remedies may consist of one (1) or more of the following:

(1) Attendance at compliance workshops;

(2) Storm drain stenciling or storm drain marking; or

(3) Waterway cleanup activities.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-205. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be take.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-206. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies

available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. No. 2020/07, § 1, 8-21-07)

Sec. 25-207. Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

(Ord. No. 2020/07, § 1, 8-21-07)

Secs. 25-208--25-209. Reserved.

ARTICLE VIII. PRIVATE SEWER LATERALS.

Sec. 25-210. Legislative Intent.

The purpose of this Article is to reduce infiltration and inflow into the sanitary sewer system operated by the City of Long Beach, and groundwater and waterways, by requiring inspection, testing, repair, replacement and ongoing maintenance of private sewer laterals by property owners within the City of Long Beach..

(Ord. No. 2086/14, § 1, 1-22-14)

Sec. 25-211. Authority.

This Article is adopted in compliance with the Federal Clean Water Act.

(Ord. No. 2086/14, § 1, 1-22-14)

Sec. 25-212. Definitions.

The following terms apply to this Chapter and are the same as, or supplement the definitions found in the Long Beach Plumbing Code:

Building Drain. Is that part of the lowest piping of a drainage system that receives sanitary sewage from inside a building and conveys it to the Lateral beginning thirty (30) inches outside the building.

Cleanout. Is a pipe fitting and associated piping connected to a Lateral that provides access to the lateral for purposes of inspection and maintenance.

Private Cleanout. Is a cleanout located on the Private Sewer Lateral.

City Cleanout. Is a cleanout at or near the property line or street curb line that is maintained by the City, which complies with current City of Long Beach standards.

Exfiltration. Is raw sewage that leaks out of laterals into soil, groundwater and waterways.

Infiltration. Is groundwater, runoff from rainfall or any other source that passes through the soil into a lateral through defects in the sewer pipes and associated structures, and water from Non-Sanitary Sewer Connections.

Inflow. Is runoff from rainfall that enters the lateral through Non-Sanitary Sewer Connections.

Infiltration and Inflow (I/I). Is the combination of inflow and infiltration.

Lateral. Is that part of the piping of a drainage system which extends from the end of the Building Drain to the Main Sewer and conveys the discharge of the Building Drain to the Main Sewer.

Lower Lateral. Is the portion of a Lateral that is located in the public right-of-way and extends from a City Cleanout to the Main Sewer.

Main Sewer or Sewer Main. Is a sanitary sewer line directly controlled by the City of Long Beach and located in the public right-of-way or City easement that collects

flows from more than one sewer Lateral.

Non-Sanitary Sewer Connection. Is any facility that directly or indirectly conveys storm water, surface water, roof runoff, intercepted groundwater or subsurface drainage into sanitary sewers, including, but not limited to, downspouts, yard drains or other sources of storm water or other run-off.

Private Sewer Lateral (PSL). Shall have one of the following meanings, depending on the circumstances:

1. In cases where a Lateral connects a Building Drain to a Sewer Main located in a street on which the building site has frontage, the PSL is the portion of the Lateral from the Building Drain to a City Cleanout if one exists, or the location where the City Cleanout is required to be.

2. In cases where a Lateral connects to a Yard Sewer Main, the PSL is the entire Lateral, including the connection to the Yard Sewer Main.

3. In all other cases, the Commissioner of Public Works or a designee of the City shall determine the extent of the PSL based on the applicable circumstances, in a manner that best accomplishes the purposes of this Article.

Satisfactory Condition. Is a condition of a Private Sewer Lateral that is indicated by:

1. Final inspection and approval of a permit for full replacement of the Private Sewer Lateral in a manner approved by the Commissioner of Public Works, or City designee, within the previous twenty (20) years; or

2. Approval by the Commissioner of Public Works or a designee of the City, of a video record of Closed Circuit Television (CCTV) inspection of the Private Sewer Lateral or by another testing or inspection method approved by the City Engineer.

Sewer Lateral Certificate. Is a certificate issued by the Commissioner of Public Works or a designee of the City, indicating that the Lateral is in “Satisfactory Condition” as defined herein.

Structure. Is any structure or building as defined in the Code of Ordinances that is provided with public sewer service by the City of Long Beach.

Transfer. Is any transaction, whether or not for consideration, in which any land is conveyed from one person or entity to another. Transfer does not include any conveyance made to a spouse or other family member in order to create a joint tenancy or tenancy in common.

Yard Sewer Main. Is a Sewer Main that is subject to the City’s control and maintenance but that is not located in a public right-of-way.

(Ord. No. 2086/14, § 1, 1-22-14)

Sec. 25-213. Standards for maintenance of Private Sewer Laterals.

It shall be the sole responsibility of private property owners to perform all required maintenance, repairs and replacements of PSLs in accordance with this Article

and any other City standards. Standards for maintenance of the PSL are set forth below.

1. PSLs shall be kept free from roots, grease deposits and other solids which may impede the flow or obstruct the transmission of waste.

2. PSLs shall not exhibit any signs of infiltration.

3. PSLs shall not exhibit any sign of exfiltration or leakage.

4. PSL pipe joints shall be tight and all PSL pipes shall be free of any structural defects such as cracks, breaks, openings, rodent holes or missing portions, and the grade shall be uniform without sags or offsets.

PSLs shall be brought into compliance when required to do so by this Article; when a person performs any work on a PSL; and when non-compliance with these standards comes to the attention of the Commissioner of Public Works or a designee of the City.

All work on PSLs shall be consistent with this Article.

(Ord. No. 2086/14, § 1, 1-22-14)

Sec. 25-214. Correction or abatement.

a. Owners shall obtain all required plumbing and sewer permits prior to making any repairs whether required by the City or for any other reason, and retain the inspection card(s), signed and approved by the Commissioner of Public Works or the City designee, as proof of completion of work.

b. Upon approval of such repairs and payment of the required fee, the City shall issue a Sewer Lateral Certificate of Compliance.

c. In the event a property does not comply with a notice and order, the City may abate the public nuisance as set forth in Article VII of this Chapter.

d. The City may recover any costs incurred in abating a public nuisance under this Article.

(Ord. No. 2086/14, § 1, 1-22-14)

Sec. 25-215. Inspection at time of sale.

a. Prior to any transfer of property that contains any structure with a sewer lateral, the owner shall have the PSLs for all property associated with the parcel number for that property inspected or tested, unless he or she presents satisfactory proof to the City that the City has issued a Sewer Lateral Certificate of Compliance for that PSL within the immediately preceding seven (7) years. Alternatively, the owner may replace the PSL without prior inspection or testing.

b. (1) All required or replacement work shall be completed and a Sewer Lateral Certificate of Compliance obtained prior to transfer of title.

(2) Alternatively, the Commissioner of Public Works may permit funds in an amount he or she determines to be sufficient to complete the work, to be retained in deposit with the City, subject to the condition that the required work be completed within six (6) months and that the transferor and transferee execute and deliver to the City a completed Right of Entry authorizing the City or its agent to enter on the property and complete the repairs if they are not completed within six (6) months after close of escrow, as well as any other conditions he or she deems appropriate. In the event the work is not completed within six (6) months of the close of escrow, the funds shall be forfeited and transferred to the City, which may enter onto the property and complete the repairs. Any additional cost of repairs shall be billed to the current owner and in the event of nonpayment, shall become a lien on the property and may be imposed pursuant to Chapter.

(Ord. No. 2086/14, § 1, 1-22-14)

Sec. 25-216. Inspection at time of major remodels.

a. Whenever a person applies for a building and/or plumbing permit for a construction valuation that exceeds fifty (50%) of the assessed value of the property, the property owner shall have the PSL for the parcel number inspected or tested, unless he or she presents satisfactory proof to the City that the PSL is less than twenty (20) years old or has been repaired within the prior seven (7) years pursuant to a permit issued by the City. Alternatively, the owner may replace the entire PSL, with a pipe material approved by the City, without prior inspection or testing.

b. In order to ensure compliance with this Article, the property owner or agent shall obtain a Sewer Lateral Certificate of Compliance prior to the finalization of the building permit for the remodel..

(Ord. No. 2086/14, § 1, 1-22-14)

Sec. 25-217. Disclosure, inspection and repair.

a. Prior to the sale or at the closing of any property being sold the owner of such property shall provide the buyer(s) with a copy of the Sewer Lateral Certificate issued by the Commissioner of Public Works, or City designee.

b. All testing and inspection procedures shall be in accordance with City approved testing and inspection procedures or other procedures or standard reviewed and approved by the Commissioner of Public Works.

c. Testing and inspection shall be performed by a qualified licensed plumbing contractor, unless the owner present satisfactory proof to the City that the Private Sewer Lateral is less than twenty (20) years old or has been repaired pursuant to a permit issued by the City within the prior seven (7) years.

d. In the event that inspection is conducted using CCTV, the City may reject any video inspection, and order a new inspection, if the video recording of the inspection is not of sufficient quality to adequately assess the condition of the Lateral to the City's satisfaction.

e. All repair or replacement work identified by the inspection or testing as necessary to prevent I/I must be completed and approved by the City.

f. The property owner shall submit a copy of the inspection card, signed and approved by the Commissioner of Public Works or City designee, as proof of compliance.

g. The Commissioner of Public Works, at his or her discretion, or the City's designee, may require a CCTV inspection following completion of repairs or replacement as proof of compliance.

h. Failure to comply with an order issued under this Article shall be deemed a violation of this Code and the condition of the Private Sewer Lateral in such cases shall be deemed, and is hereby declared, a public nuisance..

(Ord. No. 2086/14, § 1, 1-22-14)

Sec. 25-218. Sewer Lateral Certificates of Compliance.

a. Upon submittal of documentation verifying that a property owner has complied with this Article, and payment of any required fee, the City shall issue a Sewer Lateral Certificate of Compliance.

b. A Sewer Lateral Certificate of Compliance shall be effective for the following periods of time:

1. A period of seven (7) years after acceptance of an inspection or test performed under this Article if no repairs were required; inspection and approval by the City of repairs to a PSL or connections thereto; and inspection and approval by the City of completed repairs to a PSL or Cleanout ordered by

the Commissioner of Public Works or his designee.

2. A period of twenty (20) years after inspection or test and approval by the City of a complete replacement of a PSL.

(Ord. No. 2086/14, § 1, 1-22-14)

Sec. 25-219. Violation - penalty.

In addition to the enforcement processes and penalties provided in Article VII, any condition caused or permitted to exist by the property owner in violation of any of the provisions of this Article is a threatto public health, safety, and welfare, and is declared and deemed a nuisance, and maybe summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. No. 2086/14, § 1, 1-22-14)

Sec. 25-220. Severability.

The provisions of this Article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Article."

(Ord. No. 2086/14, § 1, 1-22-14)

APPENDIX A ZONING*

***Editor's note:** Ord. No. 1635/87, § 1, adopted August 21, 1987, repealed the former zoning ordinance in its entirety and enacted new provisions therefor, effective simultaneously therewith. Amendments subsequent to the adoption have been worked in and references to the amendatory ordinances appear in history notes following each section. The numbering system and language of the ordinance, as amended, have been preserved with only minor changes for clarity and uniformity. This appendix, which was formerly Ch. 9 of the Code, derived from the Code of 1957 and the following legislation:

Ord. No.	Date	Ord No.	Date
253-A.18	8-5-58	1272/75	3-4-75
602-D	4-7-59	1329/76	9-21-76
253-A.20	11-28-60	1346/77	12-6-77
253-A.21	11-28-60	1348/77	12-6-77
253-A.24	8-1-61	1433/80	11-5-80
781	3-8-66	1437/80	11-18-80
786	4-12-66	1472/82	5-4-82
794	6-7-66	1485/82	9-21-82
801	7-5-66	1492/83	2-15-83
829	12-6-66	1501/83	5-3-83
871	1-9-68	1502/83	5-3-83
974/70	6-9-70	1503/83	5-3-83
1003/70	11-4-70	1508/83	6-7-83
1004/70	11-4-70	1520/83	12-6-83
1006/70	12-8-70	1521/83	12-6-83
1040/71	4-6-71	1557/84	12-4-84
1048/71	6-8-71	1561/85	3-5-85
1049/71	6-8-71	1563/85	4-16-85
1061/71	7-6-71	1572/85	9-3-85
1075/71	9-14-71	1574/85	10-15-85
1090/71	11-3-71	1576/86	1-7-86
1091/71	11-3-71	1594/86	6-3-86
1093/71	11-23-71	1596/86	6-3-86
1100/71	12-7-71	1601/86	7-25-86
1131/72	7-11-72	1604/86	10-7-86
1133/72	7-11-72	1606/86	11-5-86
1145/72	10-2-72	1607/86	11-5-86
1151/72	11-8-72	1608/06	11-5-86
1157/73	1-9-73	1609/86	11-5-86

Sec. 9-101. Zones.
Sec. 9-102. District and zoning map.
Sec. 9-103. Prohibition.;

Ord. No.	Date	Ord No.	Date
1178/73	8-8-73	1612/86	12-16-86
11/80/73	9-4-73	1620/87	3-3-87
1184/73	10-2-73	1623/87	5-5-87

Sec. 25-220. Severability.

Cross references: Projections beyond building line, § 7-142 et seq.; zoning board of appeals, § 20-11 et seq.

Sec. 9-104. Definitions.
Sec. 9-105. Residence A District.
Sec. 9-105.1. Residence B District.
Sec. 9-105.2. Residence C District.
Sec. 9-105.3. Residence D District.
Sec. 9-105.4. Residence DD District.
Sec. 9-105.5. Residence E District.
Sec. 9-105.6. Residence EE District.
Sec. 9-105.7. Residence F District.
Sec. 9-105.8. Residence FF District.
Sec. 9-105.9. Residence G District.
Sec. 9-105.10. Residence H District.
Sec. 9-105.11. Residence J District.
Sec. 9-105.12. Residence K District.
Sec. 9-105.13. Residence L District.
Sec. 9-105.14. Residence-Business A District.
Sec. 9-105.15. Business A District.
Sec. 9-105.16. Business B District.
Sec. 9-105.17. Business C District.
Sec. 9-105.18. Industrial District.
Sec. 9-105.19. Residence M District.
Sec. 9-106. General provisions for residence districts.
Sec. 9-106.1. General provisions for all districts.
Sec. 9-106.2. Mixed uses prohibited.
Sec. 9-106.3. Continuing nonconforming mixed uses.
Sec. 9-106.4. Abandonment of nonconforming uses.
Sec. 9-106.5. Adult uses.
Sec. 9-107. Existing nonconforming buildings.
Sec. 9-108. Nonconforming uses and buildings in A, B, C, D, DD, E, EE, F, and G Districts.
Sec. 9-109. Use permit.
Sec. 9-109.1. Breach or violation of conditional variance or permit.
Sec. 9-110. Application and permits.
Sec. 9-111. Satellite-dish television antennas.
Sec. 9-112. Minimum off-street parking space requirements for passenger motor vehicles in all districts.
Sec. 9-112.1. Change in requirements.
Sec. 9-112.2. Application fee for the filing of a waiver of off-street parking space requirements.
Sec. 9-113. Mixed uses.
Sec. 9-113.1. Location of facilities.
Sec. 9-113.2. Off-street parking design standards.
Sec. 9-113.3. Discontinuance of required minimum parking space.
Sec. 9-113.4. Promulgation of rules concerning outdoor dining and open markets.
Sec. 9-114. Violations deemed a public nuisance.
Sec. 9-115. Amendments by council.
Sec. 9-116. Penalties.

Sec. 9-101. Zones.

For the purpose of promoting the public health, safety, morals and general welfare, regulating and restricting the location, construction and use of land in the City of Long Beach and by regulating and restricting the height, number of stories and bulk of buildings and other structures, the percentage of lot that may be occupied, the size of courts, yards and other open spaces, the density of population, the location and use of

buildings, structures and land for residence, business, industry and other purposes, the City of Long Beach is hereby divided into twenty (20) classes of districts termed respectively:

(1) Residence A Districts.

Section	Block	Lot
59	27	46, 47, 49, 50, 56, 57, 59, 60, 61, 62, 63, 64, 65, 148, 158, 248, 258, 265, 266, 269, 270
	28	11, 12, 14--25, 114, 115, 175, 180
	38	6--10, 41--45, 51--57, 59--60, 66--67, 69, 70, 76--79, 146--150
	39	1--5, 11, 15, 35, 71, 72, 112, 114
	50	All
	51	21--30, 36--40, 165--172
	61	21--45, 51--60, 162, 164, 168—173
	62	All
	63	1--5, 11--40
	72	1--10, 36--48, 50--70, 249
	73	All
	74	All
	75	1--5, 11--15, 26--30, 71--72, 155--158
	85	1--10, 36--38, 40--72
	86	All
	87	All
	88	11, 12, 14--22, 24--40, 113, 123, 213, 223--225
	98	1--10, 36--70
	99	All
	100	All
	101	1--5, 11, 12, 14--17, 19--22, 24--35, 113, 118, 213, 223 P/O 224
	111	36, 70, 73, 74, 76, 77
	112	All
	113	All
	114	1--5, 16--20, 31--40, 127--129, 170--173
	126	1--10, 36--70
	127	All
	128	All
	129	1--5, 11--15, 26--31, 35--40, 71--74, 132, 134

(2) Residence B Districts.

Section	Block	Lot
59	1	5--14, 32, 35, 129
	9	All
	19	47, 48, 52, 53, 55, 56, 60, 62, 64, 65
	25	11--48, 52--70, 149, 151
	26	11--29, 33--35, 40, 41, 46--65, 130, 132, 143, 167, 243, 370, 371
	27	11--12, 14--26, 29--34, 113, 213, 261, 263, 267, 268
	30	1--5, 12--42, 143, 145

	36	All
	37	All
	38	16, 17, 21--35, 73--75, 111, 115
	41	All
	48	All
	49	All
	53	All
	60	1--26, 31--35, 46--70, 128, 130
	61	1--10
	65	1--3, 10, 11, 19--23, 31, 32
	72	11--35
	85	11--35
	98	11--35
	111	11--13, 17--35, 71, 72
	117	All
	126	11--35
	140	36--40
	141	1--10
	142	6--10
	143	1--10
	144	269, 270
	147	All
	162	All
	273	All
	274	1--31
	275	All
	276	All

(3) Residence C Districts.

Section	Block	Lot
59	2	25, 26, 32--49
	6	7--15, 19--27, 29--32, 34, 35, 56--65, 147, 152, 167, 231, 149, 154, 169, 233, 234
	7	1--14, 16--35, 115, 215
	10	1--10, 36--45
	11	1--10, 36--45
	12	1--10, 36--45
	16	All
	17	1--5, 11--40
	19	58, 59
	20	1--5, 36--45, 167--169
	21	1--10, 36--45
	22	1--10, 36--45
	23	1--5, 31--63, 65, 67--74
	24	All
	25	1--10
	26	1--5, 66--67
	27	102, 104, 107, 110
	28	1--5

	30	46, 47, 51, 106, 111, 148, 150
	31	1--10, 36--45
	32	36--45, 109, 110, 171
	33	1--10, 36--45
	34	1--5, 31--35, 41--47, 57—76
	35	All
	42	1--5, 41--45
	43	5--10, 65--70
	44	1--10, 41--45, 137, 139
	45	1--10, 36--45
	46	73, 74, 132, 134
	47	36--57, 60--70, 158, 159
	54	All
	55	All
	56	All
	57	All
	58	1--27, 29--35, 128, 228
	59	36--40, 46--70, 73, 74
	67	All
	68	All
	69	All
	70	1--35
	71	36--70
	77	1, 5, 44--46, 102--104, 203
	78	46, 52, 66, 67, 75, 76, 78, 79
	81	5--35, 57, 58
	82	1--34, 56--59, 77, 78
	84	36--55, 58--70, 156
	92	6--45, 50--55, 146--149, 182, 201, 202, 204, 205
	93	All
	94	11--90
	95	11--47
	97	36--70
	105	1--5, 16, 17, 19--28, 51--70, 112, 114, 129--135, 147, 149--153
	106	1--10, 14--34, 45--70
	107	17--34, 50--53, 55, 56, 60--65, 69, 102, 104, 106, 109, 166, 168, 173--176
	108	1--35, 46--57, 63--70, 159--160
	109	37, 38, 40--69, 73, 74
	110	41--71, 138
	118	20--25, 31, 32
	119	17--26
	120	19--28
	121	24--28, 148, 131, 231
	122	30--39
	123	34--43
	124	68--72
	125	41--54, 162, 164, 167, 169--171
	133	1--10, 73, 74, 78, 80, 81
	134	37--46, 156--160
	135	1--10, 37--46
	136	1--10, 37--46

	137	37--46, 101, 103, 105, 108, 110
	138	1, 2, 6--10, 37--46, 103, 105
	139	1--8, 11--31, 37--41, 68--72, 79--82
	140	1--20, 28--35, 41--62, 71--74
	141	11--16, 20--70, 117, 119
	142	11--13, 20--23, 29--57, 61--70, 145, 167, 178--182
	143	11--24, 30--41, 46, 51, 52, 54--70, 153, 253--259
	144	17--22, 24, 25, 31, 32, 34, 35, 234, 235, 271, 272, 273, 276, 277
	148	40--45, 71--76
	149	1--10, 36--38, 40, 41, 43--45, 170--174
	150	1--10, 36--45
	151	1--10, 36--41, 168, 169
	152	1--10, 41--45, 137 & 139
	153	1--10, 40--45, 270, 271
	154	1--31, 36--40, 77--80
	155	All
	156	All
	157	All
	158	All
	159	1--5, 11--40
	163	1--10, 136--139
	164	1--10, 40--45, 71--72
	165	1--10, 36--40, 71, 73, 74
	166	1--10, 36--45
	167	1--10, 40--45, 71 & 72
	168	1--10, 36--45
	169	1--15, 26--31, 36--40, 66--70, 169--180
	170	All
	171	All
	172	All
	173	All
	174	1, 2, 4, 5, 11--16, 20--35, 160--165
	185	All
	186	All
	187	All
	188	All
	189	11--36, 137, 239, 339, 343, 344
	200	1--35, 57, 58, 60, 63, 64
	215	4--18, 22--30, 59, 60, 63, 64, 67, 68
	229	1--14

(4) Residence D Districts.

Section	Block	Lot
59	1	15, 18--23, 29--31, 33, 34, 124, 125, 127, 128
	2	112, 114, 116, 117, 119, 121, 122, 124
	10	11--15, 12--35, 59--70, 146, 148, 149, 151, 153, 154, 156--160
	11	11--30, 146, 148, 150, 151, 153, 154, 156, 157, 159, 160, 162, 164, 165, 167, 168, 170--172

	12	106, 108, 109, 111, 113, 114, 116, 117, 119, 120, 122, 123, 125, 127, 128, 130
	19	16--28, 42--44
	20	11--20, 22, 23, 46--59, 65--70, 124, 126, 127, 129, 130, 132, 133, 135, 160, 162, 164--166
	21	11, 12, 34, 35, 46--70, 113, 115, 116, 118, 119, 121, 122, 127, 128, 130, 131, 133--135
	22	46--70, 71--74, 121, 123, 124, 127, 129, 130, 132, 133, 135
	23	6--30
	30	52--76
	31	17--22, 31--35, 46--70, 111, 113, 114, 116, 124, 127, 129
	32	23, 24, 26--30, 46--63, 67--70, 110, 111, 131, 133, 135--137, 164, 166, 169, 170
	33	21--25, 27, 29--35, 49--55, 63--70, 126, 128, 146, 148, 156, 158, 159, 161, 162, 226, 228, 259, 260, 261, 263, 264
	34	6--15, 27--30, 117, 119, 121, 122, 124, 126--128
	42	11--35, 46--49, 63--70, 151, 152, 153, 155, 156, 158, 161
	43	11--35, 52--55, 57--64, 71--72, 146, 148, 149, 151, 165, 167, 168, 170
	44	14--34, 46--52, 56--70, 111, 113, 153, 155
	45	14--35, 46, 47, 51--70, 111, 113, 148, 150
	46	6--15, 24 & 25, 29, 30, 71, 72, 126, 128, 135, 136, 138
	92	56--68, 72--80, 85, 86, 169, 171, 187, 189--192, 194--197, 206
	118	11, 12, 26--30, 33
	119	11--16, 27--33
	120	15, 29--35, 111, 113, 114, 116, 118, 136, 138, 214
	121	36--47, 111, 113, 115, 116, 118--121, 123, 148
	122	40, 42, 44, 46, 47, 49, 51, 53, 54, 56, 57, 59, 60, 141, 143, 145, 148, 150, 152, 155, 157, 241, 243, 245, 248, 250--260, 352
	123	11, 12, 56--68, 113, 115, 117, 119, 120, 122, 124, 126, 127, 129, 131, 133, 144, 146, 148, 150, 151, 153, 155
	124	42--55, 60--64, 68, 73--76, 156, 158
	200	38--46, 50--55, 60--62
	215	36--38, 46--52, 61, 62, 65, 66, 69--73
	278	2--20

(5) Residence DD Districts.

Section	Block	Lot
59	3	All
	4	All
	5	11--16, 20--21, 25, 26, 30--32, 35, 36, 40--43,

		45, 48--52, 56--60, 101, 102, 117--119, 122--124, 127--129, 133, 134, 137--139, 146--147, 153--155, 233, 253, 254, 255, 256
	13	All
	14	All
	15	All

(6) Residence E Districts.

Section	Block	Lot
58	92	1 & 2, 4--23, 27--49, 53, 54
	93	1--23, 27--49
	94	1--23, 27--49
	95	1--23, 27--49
	96	1--14, 23, 27--49, 115--122
	97	1--23, 27--49
	98	1--7--10, 11, 15--23, 27--49, 53--56
	99	1--23, 27--49
	103	7--20, 35--45, 49, 50
	104	4--16, 20--32
	105	4--16, 20--32
	106	4--16, 20--32
	107	4--16, 20--32
	108	4, 5, 9--16, 20--32, 106--108
	109	4--16, 20--32
	110	4--16, 20--32
	111	4--16, 20--32
	112	1--23, 30--52
	113	1--23, 30, 33--35, 38--54, 57 & 58
	114	1--23, 30--52
	115	7--20, 35--48
	116	7--20, 35--48
59	230	1--23, 27--49
	231	1--5, 9, 10, 12--23, 27--49, 106, 108, 111, 212
	232	1--6, 10--23, 27--49, 107, 109
	233	1--23, 27--49
	234	1--23, 27--49
	235	1--23, 27--49
	236	1--23, 27--49
	237	1--23, 27--49
	238	1--23, 27--49
	239	1--23, 27--49
	240	1--23, 27--49
	241	1--12, 14--23, 27--49, 113, 213
	242	1--20, 22, 23, 27--44, 49, 145, 147--150
	243	1--23, 27--49
	252	4--16, 20--32
	253	4--16, 20--32
	254	4--16, 20--32
	255	4--16, 20, 21, 26--32, 122, 123, 125
	256	4--16, 20—32
	257	4--16, 20--32
	258	4--16, 20--32

	259	4--16, 20--32
	260	4--16, 20--32
	261	4--16, 20--32
	262	4--16, 20--32
	263	4--14, 20--32, 115, 116
	264	4--16, 20--32
	265	4--16, 20--32

(7) Residence EE Districts.

Section	Block	Lot
59	192	All
	193	All
	194	All
	195	All
	196	All
	197	All
	198	All
	199	All
	201	All
	202	All

(8) Residence F Districts.

Section	Block	Lot
59	77	6, 7, 12--39, 204--206
	78	45, 47, 51, 53, 54, 55, 58, 60--64, 68--74
	133	11--20, 31--72, 75--77, 79
	134	11--36, 47, 48, 55--72, 149, 151, 152, 154
	135	11, 12, 17--36, 49--72, 73, 75--76
	136	11--36, 47--72
	137	11--36, 47--56, 60--74
	138	11--36, 47--51, 55--72, 152, 154
	139	42--56, 58, 60, 61, 67, 73--78
	148	11--35, 46--61, 64--70, 162, 163
	149	11--28, 46--67, 168, 170, 175--178
	150	11--22, 29, 30, 34, 35, 46--67, 69, 70, 131, 133, 168, 268--270
	151	11--30, 34, 35, 46--65, 69, 70, 131, 133, 166, 167
	152	11--35, 46--70
	153	11--35, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64,66, 68, 70, 147, 149, 151, 153, 155, 157, 159, 161, 163, 165, 167, 169, 247, 249, 251, 253, 255, 257, 259, 261, 263, 265, 267, 269
	154	41--56, 71, 72, 74, 75
	163	11--32, 46--70, 133, 135
	164	11--34, 46--71
	165	11--35, 46--70
	166	11--35, 46--70

	167	11--35, 46--70
	168	11--35, 46--70
	169	41--54, 71, 115, 157, 159, 160, 162, 164--166

(9) Residence FF Districts.

Section	Block	Lot
59	81	36--41, 45--48, 50--56
	82	42--45, 52--54, 68, 69, 85, 86, 598, 599, 61A, 66A, 67, 74A, 75A, 76A, 79A, 80A, 81A, 82A, 132A--140A, 141, 184, 185, 129A, 592A--597A, 584A--589A
	177	All
	178	All
	179	All
	180	All
	181	All
	182	All
	183	All
	184	All
	203	All
	204	All
	207	All
	208	All
	209	All
	210	All
	211	All
	212	All
	213	All
	214	All
	215	All
	216	All
	217	All
	218	All
	219	All
	222	All
	223	All
	224	All
	225	All
	226	All
	227	All
	228	All
	229	36--42, 46--53, 551--560

(10) Residence G Districts.

Section	Block	Lot
58	90	All
	91	All
	100	All
	101	All
	102	All
	133	All
59	244	All
	245	All
	246	All
	247	All
	248	All
	249	All
	250	1--10

(11) Residence H Districts.

Section	Block	Lot
59	80	All
	83	All
	104	78, 80
	277	9--3--5
	278	34, 35, 37, 38

(12) Residence J Districts.

Section	Block	Lot
59	7	36--70
	17	6--10, 51--52, 54, 55, 71--76, 147, 149, 157, 159, 162, 164
	28	51--56, 60--61, 157, 159, 162, 170--173, 181
	39	6--10, 41--45, 51--70, 150
	51	6--10, 41--45, 51--60, 66--70, 147, 149, 162, 164
	63	6--10, 41--56, 66--70, 157, 162, 164, 165
	75	6--10, 41--47, 56--70, 149, 152, 154, 159, 160
	88	6--10, 41--70
	101	6--10, 46--60, 224, 225
	114	6--10, 41--45, 51--65, 147, 149, 167, 169
	129	6--10, 41--70
	144	6--10, 41, 45--64, 66--72, 142, 144, 168, 268
	159	6--10, 41--54, 66, 67, 71, 72, 74, 75, 76, 77, 78, 165, 166
	174	61--70, 141, 144, 152, 154, 156, 159, 166--170
	189	48--70, 144, 242, 342, 345, 346, 347

(13) Residence K Districts.

Section	Block	Lot

59	8	All
	18	All
	29	All
	205	All
	220	11--16, 22--30, 46--59, 71, 72, 75, 101--105, 107

(14) Residence L Districts.

Section	Block	Lot
59	40	All
	52	All
	64	All
	76	All
	130	All
	131	All
	145	All
	146	All
	160	All
	161	All
	175	All
	190	All
	191	All
	206	All
	220	106, 80

(15) Residence-Business A Districts.

Section	Block	Lot
59	89	All
	115	All
	116	All
	272	All

(16) Business A Districts.

Section	Block	Lot
59	46	40--70, 75, 76
	47	1--18, 22--26, 160--163
	58	36--70
	59	1--14, 16--35, 71, 72
	70	36--70
	71	1--13, 15--35, 114, 214
	84	1--20, 24--35, 158, 160
	94	1--10
	96	210--214
	97	1--30, 132, 134
	109	1--36
	110	1--6, 16--35, 139, 140
	124	1--15, 19--36, 78, 175, 176
	125	1--27, 33--35, 172, 173
	229	15--28, 61--64, 31--34

(17) Business B Districts.

Section	Block	Lot
58	92	24--26, 50--23
	93	24--26, 50--23
	94	24--26, 50--23
	95	24--26, 50--23
	96	24--26, 50--23
	97	24--26, 50--23
	98	24--26, 50--23
	99	24--26, 50--23
	103	1--6
	104	1--3, 17--19
	105	1--3, 17--19
	106	19, 117, 118, 217, 220
	107	1--3, 117, 119, 120
	108	1--3, 17--19
	109	1--3, 33, 34
	110	33--37
	111	1--3, 17--19
	112	24--29
	113	55--56
	114	24--29
	115	1--6
	116	1--6
59	230	24--26, 50--52
	231	24--26, 50--52
	232	24--26, 50--52
	233	24--26, 50--52
	234	24--26, 50--52
	235	24--26, 50--52
	236	24--26, 50, 151, 152
	237	24--26, 50--52
	238	24--26, 50--52
	239	24--26, 50--52
	240	24--26, 50--52
	241	24--26, 50--52
	242	24--26, 50--52
	243	24--26, 50--52
	252	1--3, 17--19
	253	1--3, 17--19
	254	1--3, 17--19
	255	1--3, 17--19
	256	1--3, 17--19
	257	1--3, 17--19
	258	1--3, 17--19
	259	1--3, 17--19
	260	3, 17--19, 33, 34
	261	1--3, 17--19
	263	1--3, 17--19
	264	1--3, 17--19
	265	1--3, 17--19
	5	103
	6	235, 236, 41—45

(18) Business C Districts.

Section	Block	Lot
59	104	All
	105	36--45
	106	35--44
	107	35--44
	108	36--45
	109	68--72
	118	36, 38, 40
	119	35, 37, 39, 41
	120	37, 39
	121	233, 232
	122	1--10
	123	1--10
	124	37--41

(19) Industrial Districts.

Section	Block	Lot
59	79	All
	90	All
	91	
	102	All
	104	83, 84, 71
	277	1, 4, 6, 8
	278	1, 22--26, 29--32--36

(20) Residence M Districts.

Section	Block	Lot
58	86	All
	87	All
	88	All
		All
		All
		All

(Ord. No. 1903/98, § 1, 9-1-98)

Sec. 9-102. District and zoning map.

The boundaries of the foregoing districts are hereby established as shown on a map entitled "The Zoning Map of the City of Long Beach" on file in the office of the City Clerk of the City of Long Beach, which map with all explanatory matter thereon, shall be

deemed to accompany, be, and is hereby made a part of this chapter [ordinance].

Sec. 9-103. Prohibition.

No building or premises shall be erected or altered, used or maintained, except in conformity with the regulations herein prescribed for the use, height or area for the district in which such building or premises is located.

Sec. 9-104. Definitions.

(a) In addition to the definitions set forth in the state building construction code, the following terms shall, for the purposes of this appendix, have the meanings ascribed to them as follows:

Accessory building: A subordinate building or structure on the same lot as the main building, occupied by or devoted exclusively to an accessory use.

Accessory use: A use, occupancy or tenancy customarily incidental to the principal use or occupancy of a building.

Addition: Extension or increase in area, height or equipment of a building.

Alteration: As applied to a building or structure, shall mean any change, rearrangement, or enlargement in the structural parts or exit facilities of a building or structure, whether by extending said building or structure on any side or by increasing said building or structure in height, or the moving of said building or structure from one location or position to another location or position.

Appendage: Equipment and/or stairway bulkhead not exceeding twenty (20) feet in height.

Apartment or suite: Shall mean one (1) or more rooms occupied or intended to be occupied as the home or residence of an individual, family or household.

Approved: Shall mean constructed, installed and maintained in accordance with the provisions of this appendix and other pertinent provisions of this Code or other ordinances or regulations of the city.

Approved material and construction: Shall mean approved by the commissioner of buildings under the provisions of this appendix or the building code of the city (or the New York State Uniform Fire Prevention and Building Code), or by any other authority authorized by law to give approval in the matter in question.

Attic: Space between the top of uppermost floor construction and underside of roof.

Basement: That space of a building which is at least one foot below grade, which has more than one-half of its height, measured from floor to ceiling, either above adjoining ground or grade level, whichever is higher.

Bathroom: An enclosed space containing a minimum of one (1) water closet, one (1) lavatory, and either one (1) bathtub or one (1) shower. It may also contain additional plumbing fixtures serving similar purposes. See definition of "toilet room."

Blight: A condition that is of substandard quality or appearance.

Building: A structure wholly or partially enclosed within exterior or party walls, containing a roof amd a single standalone foundation, affording shelter to persons, animals or property.

Building area: The aggregate of the maximum horizontal cross-section area of the buildings on a lot or development site, excluding cornices, caves, gutters, bay windows or chimneys projecting not more than twenty-four (24) inches, steps, one-story open porches, balconies and terraces. It shall not include accessory buildings less than fifteen (15) feet in height.

Building line: Shall mean the line formed by the exterior edge of any side of a building, including the line which would be created if said side was extended along the same plane to the property line.

Cellar: That space of a building which is partly or entirely below grade, which has more than one-half of its height, measured from the floor to the ceiling, below either adjoining ground or grade level, whichever is higher.

Code enforcement officer: Shall mean the commissioner or his duly authorized representative.

Commissioner of buildings or commissioner: Shall mean the commissioner of buildings and property conservation of the city or his legally designated representative.

Community Benefit Bonus (CBB): Incentive for Applicants who choose to seek additional height and density, and/or parking and yard/building setback reductions for applications involving multiple dwelling or mixed use developments in the Residence-

Business A District by providing desired community amenities from an approved list of benefits and as recommended by the City Manager and approved by the City Council.

Court: Shall mean a space, other than a yard, on the same lot as building structure, which is open on at least one (1) side of said space and is open to the sky.

Court, inner: Shall mean a court not extending to a street or yard.

Court, outer: Shall mean a court extending to a street or yard.

Department: Shall mean the department of buildings and property conservation of the city.

Development Site: An assemblage of one or more contiguous and/or adjacent lots with common ownership throughout.

Dormitory/student residence: Shall mean a building or part of a building designed, used or intended to be used as and for the residence of full-time students of a school duly licensed by the Department of Education and the State of New York. Every dormitory/student residence must be located either in the same building, or on the same lot, or on a lot contiguous to the school which the residents of the dormitory/student residence attend.

Dwelling: A building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, including one-family, two-family and multiple-family dwellings.

Dwelling, one-family: A building containing not more than one dwelling unit

occupied exclusively for residential purposes.

Dwelling, two-family: A building containing two (2) dwelling units occupied exclusively for residential purposes.

Dwelling, multiple: A building containing three (3) or more dwelling units occupied exclusively for residential purposes.

Dwelling unit: A living unit containing one (1) or more habitable rooms, with provisions for living, cooking, eating, sanitary and sleeping facilities arranged for the use of one (1) family.

Equipment: Plumbing, heating, electrical, ventilating, air conditioning, refrigerating, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

Exterior property areas: Shall mean open spaces on the premises and vacant open space on adjacent premises.

Extermination: Shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing, or making inaccessible, materials that may serve as their food by any recognized and legal pest elimination method approved by the enforcement officer.

Family: The term "family" shall mean one of the following:

(1) One person living alone; or

(2) Two (2) or more persons, all of whom are related to each other by blood, adoption or marriage, living together in a single dwelling unit; or

(3) Not more than two (2) persons not related to each other by blood, adoption or marriage, living and cooking together in a single dwelling unit; or

(4) A group home for a surrogate family consisting of foster parents and children, as described in Section 374-c of the New York State Social Services Law, or other similar functionally equivalent family, living and cooking together in a single dwelling unit.

Fences: The term "fence" as used in this appendix shall include but shall not be limited to hedges, foliage, shrubbery, trees, bushes, objects, articles or structures so placed, planted, erected or arranged as to form a substantially continuous wall, barrier, obstruction or screen.

Garbage: Shall mean all putrescible animal, vegetable or mineral wastes resulting from the handling, preparation, cooking and consumption of food.

Grade level: Centerline of road adjacent to property or base flood elevation and applicable freeboard as required by Article XII FLOOD HAZARD ZONES of the City Code..

Habitable room: Shall mean a room occupied by one (1) or more persons for living, eating or sleeping, and includes kitchens serving individual households or apartments, but does not include bathrooms, water closet compartments, laundries, serving and storage pantries, corridors, cellars and similar spaces that are not used frequently or during extended periods, nor does it include kitchenettes.

Height: The height of a wood frame building shall be measured from grade level to the highest point of the roof in the case of roofs inclining not more than one inch to each foot and in the case of other roofs to a level halfway between the top of the main plate and the highest ridge. In all other building classifications, the height will be measured from grade level to the highest point of the building. This measurement shall not include appendages upon the roofs of such building.

Infestation: Shall mean the presence within or around a dwelling, dwelling unit, rooming house, rooming unit or premises, of insects, rodents, vermin or other pests.

Junked vehicle: Shall mean any vehicle, including a trailer, which is without a currently valid license plate or plates, and is in either a rusted, wrecked, discharged, dismantled, partly dismantled, inoperative or abandoned condition. A junked vehicle shall be classified as to its condition in one of the two (2) following categories:

(1) *Restoration (Symbol "R").* The term restoration shall mean a junked vehicle that is in a condition whereby repairs to it could be made to place it in operating condition without undue expense.

(2) *Wreck (Symbol "W").* The term "wreck" shall mean a junked vehicle in such condition that it is economically unsound to restore it to operating condition, taking into consideration the repairs to be made, the age of the vehicle and the market value of the vehicle if it were restored; or in such condition whereby the commissioner in his opinion determines that it warrants such classification.

The commissioner shall make the final determination as to the classification to be assigned to any particular vehicle.

Kitchen: Shall mean a space, sixty (60) square feet or more in floor area, with a minimum width of five (5) feet, used in cooking or preparation of food, and is deemed habitable space.

Kitchenette: Shall mean a space, less than sixty (60) square feet in floor area, used for cooking or the preparation of food, and is not deemed habitable space.

Lot: Any plot, tract or parcel of land occupied or intended to be occupied by one (1) or more principal buildings and accessory buildings and uses, including such open spaces as are required by this appendix.

Lot, depth of: The average distance from the street line to the rear lot line, measured in the average general direction of the sidelines of the lot.

Lot, rear line: The lot line opposite the street line, or in the case of a corner lot, the lot line elected by the owner, provided that it be indicated on the plans filed with the building commissioner as provided hereafter.

Lot, width of: The distance between the side lot lines measured at the center of depth of the lot.

Mixed occupancy: Occupancy of a building in part for residential use and in part for commercial use.

Nonhabitable space: Shall mean a room within a dwelling such as bathrooms, water closet compartments, laundries, kitchenettes, serving and storage pantries, corridors, cellars and similar spaces that are not utilized frequently or for extended

periods of time.

Occupant: Shall mean any person, including an owner or operator, over one (1) year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or room in a rooming house.

Operator or manager: Shall mean any person having charge, care, management or control of any dwelling or part thereof, in which dwelling units or rooming units are let.

Owner: Shall mean any person who, singly, jointly or severally with others, holds legal or equitable title to any dwelling, dwelling unit, rooming house or rooming unit. Owner shall include any agent, employee, officer or director thereof.

Parking space: An area of not less than one hundred eighty (180) square feet, net, having a width of not less than nine (9) feet and a length of not less than twenty (20) feet, net, to be used exclusively as a temporary storage space for one private motor vehicle. Compact parking spaces shall have a width of not less than eight (8) feet and a length of not less than seventeen (17) feet, net. Truck loading and unloading space shall not be included in such area.

Party wall: A wall on an interior lot line used or adapted for joint service between two (2) buildings or structures.

Plumbing: Shall mean and include all of the following supplied facilities and equipment: Gas pipes; gas-burning equipment; water pipes; waste pipes; water closets; sinks; installed dishwashers; lavatories; bathtubs; shower baths; installed clothes washing machines; catch basins; drains; vents; and any other similar supplied fixtures, together with all connections to water, sewage or gas lines.

Potable water: Shall mean water which is approved for drinking, culinary and domestic purposes as set forth in the state sanitation code.

Premises: A lot, plot or parcel of land including the building or structures thereon.

Private garage: A building or part thereof accessory to a main building and providing for the storage of automobiles and which shall not be utilized for any occupation or business purposes.

Public space: Shall mean space within a residential building for public use, such as lobbies, lounges, reception, ball, meeting, lecture and recreation rooms, banquet and dining rooms and their kitchens and swimming pools.

Refuse: Shall mean all cardboard, plastic, metal or glass food containers, wastepaper, rags, sweepings, small pieces of wood, excelsior, rubber, leather and similar waste material that ordinarily accumulates around a home, business or industry.

Rehabilitation: Rehabilitation shall mean to repair and/or replace in whole or in part any building or structure at a cost in excess of fifty (50) percent of the market value of such building or structure immediately before work is commenced, exclusive of the value of the land and foundation.

Restaurant: A business engaged in the preparation and sale of food and beverages selected from a full menu and consumed on the premises by patrons seated at a table or counter and served by a waitress or waiter.

Restaurant, fast food: A business enterprise primarily engaged in the sale of ready to consume food and beverages generally served in disposable or prepackaged

containers or wrappers and where patrons usually select their orders from a posed menu offering a limited number of specialized items, such as, but not limited to: hamburgers, chicken, fish and chips, hero sandwiches, pizza, tacos and hot dogs, which are prepared according to standardized procedures for consumption either on or off the premises in a facility where a substantial portion of the sales to the public is by drive in or take out service.

Rooming house: Shall mean any dwelling, or part thereof, which contains one or more rooming units, in which space is let by the occupant or owner to three (3) or more persons not directly related to him, for residential purposes, but not for cooking or eating purposes.

Rooming unit: Shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living or sleeping, but not for cooking or eating purposes.

Rubbish: Shall mean all combustible and noncombustible waste, except garbage.

Sewage: Shall mean liquid waste containing animal or vegetable matter in suspension or solution, and which may include industrial wastes and liquids containing chemicals.

Stepback: For any multiple dwelling or mixed use development building proposed within twenty (20) feet of the property line along the street line in the Residence-Business A District, the fourth story and all stories above must be set back a minimum of fifteen (15) feet from the front of the building along the street frontage, as recommended by the Commissioner of Buildings and approved by the City Council

Story: The portion of a building which is between one floor level and the next higher floor level or the roof. A basement, where the finished floor immediately above such basement is less than seven (7) feet above grade, as defined in this section, shall not be deemed a story. Under no circumstances, shall an attic or a cellar be deemed to be a story.

Street line: The dividing line between a street and a lot.

Structure: Shall mean a combination of materials to form a construction that is safe and stable and includes, among other things, buildings, porches, balconies, terraces, decks, stadiums, tents, reviewing stands, platforms, stagings, radio and television towers and antennas, satellite dishes, sheds, storage bins, walls, fences and display signs; the term "structure" shall be construed as if followed by the words "or part thereof."

Studio unit: Shall mean a living unit containing one habitable room with provisions for living, cooking, eating and sleeping facilities arranged for the use of one family.

Toilet room: An enclosed space containing a minimum of one (1) water closet and one (1) lavatory; it may also contain additional plumbing fixtures serving similar purposes. See the definition of "bathroom."

Unoccupied hazard: Shall mean any building structure or part thereof situated within one (1) or more residential zoning districts, or within one thousand (1,000) feet of any residential zoning work district, which remains unoccupied for a period of more than six (6) months with its doors, windows or other openings broken, removed, boarded or

sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than six (6) months.

Ventilation: Shall mean the supply and removal of air to and from a space by natural or mechanical means.

Ventilation, mechanical: Shall mean ventilation by power-driven devices.

Ventilation, natural: Shall mean ventilation by an opening to outer air through windows, skylights, doors, louvers or stacks, with or without wind-driven devices.

Water closet: Shall mean a toilet, with a bowl and trap, which is connected to the city water and sewer system or to other approved water supply and sewer system.

Yard: An open space on the same lot which contains a building and located between the building line and the lot line which the particular building line faces.

Yard, front: An open space extending from the front building line to the front lot line, unoccupied and unobstructed from the ground upward, excluding cornices, eaves, gutters, bay windows and chimneys projecting not more than eighteen (18) inches.

Yard, rear: An open space extending from the rear building line to the rear lot line, unoccupied and unobstructed from the ground upward, excluding cornices, eaves, gutters, bay windows and chimneys projecting not more than eighteen (18) inches.

Yard, side: An open space extending from the front yard to the rear yard and located between the building line and the side lot line, which space shall be unoccupied and unobstructed from the ground upwards, excluding cornices, eaves, gutters, bay windows and chimneys projecting not more than eighteen (18) inches, and except as hereinafter specified.

(b) Whenever the words "building," "dwelling," "dwelling unit," "rooming house" and "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. No. 1671/88, § 1, 7-5-88; Ord. No. 1688/89, § 1, 2-7-89; Ord. No. 1703/89, § 1, 7-5-89; Ord. No. 1754/91, § 1, 5-7-91; Ord. No. 1761/91, § 1, 6-18-91; Ord. No. 1795/92, § 1, 12-1-92; Ord. No. 1825/94, § 1, 11-1-94; Ord. No. 1878/97, § 1, 4-15-97; Ord. No. 1902/98, § 1, 9-1-98; Ord. No. 3000/16, § 1 ,2/16/2016)

Sec. 9-105. Residence A District.

(a) *Uses.* Within any Residence A District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A federal, state, county, municipal or public utility building or structure, if approved by the board of appeals as hereinafter provided.

(3) Municipal recreation building, playground or park.

(4) College, library, fire station or school.

(5) Church or other place of worship, convent, parish house or Sunday

school building.

(6) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be two (2) stories and an attic above a basement or cellar, but not over twenty-five (25) feet.

(c) *Front yard.* There shall be a front yard, the depth of which shall be at least twenty (20) feet back of street line. In case of a corner lot, a front yard shall be required on each street on which the lot abuts.

(d) *Side yard.* There shall be a side yard along each side lot line and it shall be at least six (6) feet in width on one side of the building and at least eight (8) feet in width on the other side and extend unobstructed from the front yard to the rear yard.

(e) *Rear yard.* There shall be a rear yard on every lot and it shall be at least twenty (20) feet deep, except first-story rear projections from the building, not exceeding fifteen (15) feet in height, may extend to within fifteen (15) feet of the rear lot line.

Where a lot is more than one hundred (100) feet deep, one-half of the additional depth of the lot in excess of one hundred (100) feet shall be added to each rear yard depth, but in no case shall a rear yard in excess of forty (40) feet be required.

(f) *Building area.* The building area shall not be less than twenty-five (25) per cent of the minimum required lot area, nor shall the building area exceed forty (40) per cent of the total area.

(g) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high, may occupy in the aggregate not over forty (40) per cent of the required rear yard area.

(h) *Density.* No residence shall be erected or altered to make provision for more than one family for each five thousand (5,000) square feet of area of the lot.

(i) *Minimum lot size.* The minimum lot size shall be fifty (50) by one hundred (100) feet.

(j) In the event that an existing building or structure prevents the subdivision of the plot of ground on which it stands into two (2) or more legal building plots, neither such existing building or structure, nor any part thereof, may be demolished nor destroyed to accomplish the subdivision of said plot of land into two (2) or more legal building plots.

(Ord. No. 1700/89, § 1, 5-16-89)

Sec. 9-105.1. Residence B District.

(a) *Uses.* Within any Residence B District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A federal, state, county, municipal or public utility building or structure, if

approved by the board of appeals as hereinafter provided.

(3) Municipal recreation building, playground or park.

(4) College, library, fire station or school.

(5) Church or other place of worship, convent, parish house or Sunday school building.

(6) Hospital, subject to the condition that such building shall be located not less than twenty-five (25) feet from every lot and street.

(7) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be two (2) stories and an attic above a basement or cellar, but not over twenty-five (25) feet.

(c) *Front yard.* There shall be a front yard, the depth of which shall be at least twenty (20) feet back of street line. In case of a corner lot, a front yard shall be required on each street on which the lot abuts.

(d) *Side yard.* There shall be a side yard along each side lot line, and it shall be at least five (5) feet in width on one side and eight (8) feet in width on the other side of the building, and extend unobstructed from the front yard to the rear yard.

(e) *Rear yard.* There shall be a rear yard on every lot and it shall be at least twenty (20) feet deep behind a building, except that first-story rear projections from the building, not exceeding fifteen (15) feet in height, may extend to within fifteen (15) feet of the rear lot line.

Where a lot is more than one hundred (100) feet deep, one-half of the additional depth of the lot in excess of one hundred (100) feet shall be added to such rear yard depth, but in no case shall a rear yard in excess of forty (40) feet be required.

(f) *Building area.* A building area shall not be less than twenty-five (25) per cent of the minimum required lot area, nor shall the building area exceed forty-five (45) per cent of the total lot area.

(g) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high, may occupy in the aggregate not over forty (40) per cent of the required rear yard area.

(h) *Density.* No residence shall be erected or altered to make provision for more than one family for each four thousand (4,000) square feet of the area of the lot.

(i) *Minimum lot size.* The minimum lot size shall be forty (40) by one hundred (100) feet.

(j) In the event that an existing building or structure prevents the subdivision of the plot of ground on which it stands into two (2) or more legal building plots, neither such existing building or structure, nor any part thereof, may be demolished nor destroyed to accomplish the subdivision of said plot of land into two (2) or more legal building plots.

(Ord. No. 1700/89, § 2, 5-16-89)

Sec. 9-105.1. Residence B District.

Sec. 9-105.2. Residence C District.

(a) *Uses.* Within any Residence C District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A two-family detached house for two (2) dwelling units only.

(3) A federal, state, county, municipal or public utility building or structure, if approved by the board of appeals as hereinafter provided.

(4) Municipal recreation building, playground or park.

(5) College, library, fire station or school.

(6) Church or other place of worship, convent, parish house or Sunday school building.

(7) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be two (2) stories and an attic above a basement or cellar, but not over twenty-five (25) feet.

(c) *Front yard.* There shall be a front yard, the depth of which shall be at least twenty (20) feet back of street line. In case of a corner lot, a front yard shall be required on each street on which the lot abuts.

(d) *Side yard.* There shall be a side yard along each side lot line, and it shall be at least five (5) feet in width on one side and eight (8) feet in width on the other side of the building, and extend unobstructed from the front yard to the rear yard.

(e) *Rear yard.* There shall be a rear yard on every lot and it shall be at least twenty (20) feet deep behind a building, except that first-story rear projections from the building, not exceeding fifteen (15) feet in height, may extend to within fifteen (15) feet of the rear lot line.

Where a lot is more than one hundred (100) feet deep, one-half of the additional depth of the lot in excess of one hundred (100) feet shall be added to such rear yard depth, but in no case shall a rear yard in excess of forty (40) feet be required.

(f) *Building area.* The building area shall not be less than twenty-five (25) per cent of the minimum required lot area, nor shall the building area exceed forty-five (45) per cent of the total lot area.

(g) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high, may occupy in the aggregate not over forty (40) per cent of the required rear yard area.

(h) *Density.* No residence shall be erected or altered to make provision for more than two (2) families for each four thousand (4,000) square feet of the area of the lot.

(i) *Minimum lot size.* The minimum lot size shall be forty (40) by one hundred (100) feet.

(j) In the event that an existing building or structure prevents the subdivision of the plot of ground on which it stands into two (2) or more legal building plots, neither such existing building or structure, nor any part thereof, may be demolished nor destroyed to accomplish the subdivision of said plot of land into two (2) or more legal building plots.

(k) Notwithstanding anything in this section to the contrary, no two-family dwelling shall be erected or occupied in the C District unless a building permit or certificate of occupancy had been issued for such two-family dwelling, or such two-family dwelling was otherwise lawful on January 1, 2000. No building permit shall be issued on or after January 1, 2000 for the construction, creation or erection of a two-family detached dwelling where the land is vacant or contains only a one-family detached dwelling.

(Ord. No. 1700/89, § 3, 5-16-89; Ord. No. 1927/00, § 2, 1-4-00)

Sec. 9-105.3. Residence D District.

(a) *Uses.* Within any Residence D District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A two-family detached house for two (2) dwelling units only.

(3) A federal, state, county, municipal or public utility building or structure, if approved by the board of appeals as hereinafter provided.

(4) Municipal recreation building, playground or park.

(5) College, library, fire station or school.

(6) Church or other place of worship, convent, parish house or Sunday school building.

(7) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be two (2) stories and an attic above a basement or cellar but not over twenty-five (25) feet.

(c) *Front yard.* There shall be a front yard, the depth of which shall be at least fifteen (15) feet back of street line. In case of a corner lot, a front yard shall be required on each street on which the lot abuts.

(d) *Side yard.* There shall be a side yard along each side lot line and it shall be at least five (5) feet in width on each side of the building, and extend unobstructed from the front yard to the rear yard.

(e) *Rear yard.* There shall be a rear yard on every lot and it shall be at least twenty (20) feet deep behind a building, except that first-story rear projections from the building, not exceeding fifteen (15) feet in height, may extend to within fifteen (15) feet of the rear lot line.

Where a lot is more than one hundred (100) feet deep, one-half of the additional

depth of the lot in excess of one hundred (100) feet shall be added to such rear yard depth, but in no case shall a rear yard in excess of forty (40) feet be required.

(f) *Building area.* The building area shall not exceed forty (40) per cent of the lot area.

(g) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high, may occupy in aggregate not over forty (40) per cent of the required rear yard area.

(h) *Density.* No residence shall be erected or altered to make provision for more than two (2) families for each three thousand (3,000) square feet of the area of the lot.

(i) *Minimum lot size.* The minimum lot size shall be thirty (30) by one hundred (100) feet.

(j) In the event that an existing building or structure prevents the subdivision of the plot of ground on which it stands into two (2) or more legal building plots, neither such existing building or structure, nor any part thereof, may be demolished nor destroyed to accomplish the subdivision of said plot of land into two (2) or more legal building plots.

(k) Notwithstanding anything in this section to the contrary, no two-family dwelling shall be erected or occupied in the D District unless a building permit or certificate of occupancy had been issued for such two-family dwelling, or such two-family dwelling was otherwise lawful on January 1, 2000. No building permit shall be issued on or after January 1, 2000 for the construction, creation or erection of a two-family detached dwelling where the land is vacant or contains only a one-family detached dwelling.

(Ord. No. 1700/89, § 4, 5-16-89; Ord. No. 1927/00, § 2, 1-4-00)

Sec. 9-105.4. Residence DD District.

(a) *Uses.* Within any Residence DD District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A federal, state, county, municipal or public utility building or structure, if approved by the board of appeals as hereinafter provided.

(3) Municipal recreation building, playground or park.

(4) College, library, fire station or school.

(5) Church or other place of worship, convent, parish house or Sunday school building.

(6) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be not more than twenty-three (23) feet.

(c) *Front yard.* There shall be a front yard, the depth of which shall be at least ten (10) feet back of the street line. In case of a corner lot, the front yard shall be required on each street on which the lot abuts. This, however, shall not prohibit the erection and maintenance of an open porch in such front yard, provided that the same be erected not closer to the front line than three (3) feet.

(d) *Side yard.* There shall be a side yard along each side lot line and it shall be at least four (4) feet in width on each side of the building, and extend unobstructed from the front yard to the rear yard.

(e) *Rear yard.* There shall be a rear yard on every lot and it shall be at least four (4) feet deep behind a building.

(f) *Building area.* The building area shall not exceed fifty-seven (57) per cent of the lot area.

(g) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high.

(h) *Density.* No residence shall be erected or altered to make provision for more than one family for each two thousand (2,000) square feet of the area of the lot.

(i) *Minimum lot size.* The minimum lot size shall be forty (40) by fifty (50) feet.

(j) In the event that an existing building or structure prevents the subdivision of the plot of ground on which it stands into two (2) or more legal building plots, neither such existing building or structure, nor any part thereof, may be demolished nor destroyed to accomplish the subdivision of said plot of land into two (2) or more legal building plots.

(k) Nothing contained in this section shall prevent the reconstruction, rebuilding, alteration of, addition to, and/or continued use of any building for which a nonconforming status has been created as a result of the change in height limitation. However, nothing in this section shall be construed to enlarge or expand any nonconforming rights created as a result of the change in height limitation.

(l) Notwithstanding any of the provisions set forth in this Section and due to the impact of Superstorm Sandy, one and two-family pre-existing dwelling structures shall be permitted provided that:

(1) Said structures shall conform to all FEMA and New York State Building Construction Codes; and

(2) All new construction shall have at least two on-site parking spaces created where technically feasible; and

(3) All plans submitted must be approved by the Department of Buildings and shall be designed to ensure only the intended legal occupancy, i.e. one family use or pre-existing two-family use only.

(m) Due to the impact of Superstorm Sandy, all structural elevations of pre-existing one or two family buildings and/or one or two family dwellings, that existed or exist in substantially the same dimensions, size, shape, form and use during or immediately prior to October 29, 2012, shall comply with all applicable zoning requirements of the City of Long Beach Zoning Code of Ordinances except as

specifically modified herein:

(1) *Front yard*. There shall be a front yard, the depth of which shall be at least ten (10) feet back of the street line. In case of a corner lot, the front yard shall be required on each street on which the lot abuts. This, however, shall not prohibit the erection and maintenance of an open porch in such front yard, provided that the same be erected not closer to the front line than one (1) foot.

(i) In the event that the front yard should contain an open porch, support beams for said open porch must not be closer to the front line than three (3) feet.

(2) *Side yard*. There shall be a side yard along each side lot line and it shall be at least four (4) feet in width on each side of the building, and extend unobstructed from the front yard to the rear yard, except where a pre-existing entrance to a one or two family dwelling existing prior to October 29, 2012, the installation of a wooden staircase and landing, in compliance with the minimum dimensions permitted by the New York State Residential Code, may be permitted to be erected on a single side yard only.

(Ord. No. 1700/89, § 5, 5-16-89; Ord. No. 1731/90, §§ 1, 2, 8-7-90; Ord. No. 1774/92, § 1, 4-7-92; Ord. No. 2079/13, § 1 ,2/5/2013; Ord. No. 3000/16, § 1 ,2/16/2016)

Sec. 9-105.4. Residence DD District.

Sec. 9-105.5. Residence E District.

(a) *Uses.* Within any Residence E District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A federal, state, county, municipal or public utility building or structure, if approved by the board of appeals as hereinafter provided.

(3) Municipal recreation building, playground or park.

(4) College, library, fire station or school.

(5) Church or other place of worship, convent, parish house or Sunday school building.

(6) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be not more than twenty-three (23) feet.

(c) *Front yard.* There shall be a front yard, the depth of which shall be at least ten (10) feet back of the street line. In case of a corner lot, the front yard shall be required on each street on which the lot abuts. This, however, shall not prohibit the erection and maintenance of an open porch in such front yard, provided that the same be erected not closer to the front line than three (3) feet.

(d) *Side yard.* There shall be a side yard along each side lot line and it shall be at least four (4) feet in width on each side of the building, and extend unobstructed from the front yard to the rear yard.

(e) *Rear yard.* There shall be a rear yard on every lot and it shall be at least four (4) feet deep behind a building.

(f) *Building area.* The building area shall not exceed fifty-seven (57) per cent of the lot area.

(g) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high.

(h) *Density.* No residence shall be erected or altered to make provision for more than one family for each eighteen hundred (1,800) square feet of the area of the lot.

(i) *Minimum lot size.* The minimum lot size shall be thirty (30) by sixty (60) feet.

(j) *Existing two-family structure.* Notwithstanding any of the provisions set forth in this section, two-family dwelling structures shall be permitted in that portion of this district which is west of the center line of New York Avenue, provided that:

(1) Said structure and use as a two-family dwelling shall have existed prior to November 4, 1970*; and

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***Editor's note:** The section from which this section is derived was adopted on December 3, 1957; the ordinance which added this subsection was adopted on November 4, 1970.

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(2) Said structure shall conform to the New York State Building Construction Code applicable to two-family dwellings, and to all ordinances of the City of Long Beach, and, further that a certificate of compliance shall have been obtained within six (6) months after November 4, 1970; and

(3) At least one on-site parking facility shall exist on the premises; and

(4) Separate egress shall be provided for each dwelling unit; and

(5) All setbacks and other yard and height requirements of the Residence E District shall apply.

(6) Except as herein provided this amendment shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time of the enactment of this subsection, but the same may be enjoyed, asserted and enforced, prosecuted or inflicted as fully and to the same extent as if such amendment had not been affected.

(k) In the event that an existing building or structure prevents the subdivision of the plot of ground on which it stands into two (2) or more legal building plots, neither such existing building or structure, nor any part thereof, may be demolished nor destroyed to accomplish the subdivision of said plot of land into two (2) or more legal building plots.

(l) Nothing contained in this section shall prevent the reconstruction, rebuilding, alteration of, addition to, and/or continued use of any building for which a nonconforming status has been created as a result of the change in height limitation. However, nothing in this section shall be construed to enlarge or expand any nonconforming rights created as a result of the change in height limitation.

(m) No property within any Residence E District shall be subdivided.

(n) Notwithstanding any of the provisions set forth in this Section and due to the impact of Superstorm Sandy, one and two-family pre-existing dwelling structures shall be permitted provided that:

(1) Said structures shall conform to all FEMA and New York State Building Construction Codes; and

(2) All new construction shall have at least two on-site parking spaces created where technically feasible; and

(3) All plans submitted must be approved by the Department of Buildings and shall be designed to ensure only the intended legal occupancy, i.e. one family use or pre-existing two-family use only.

(o) Due to the impact of Superstorm Sandy, all structural elevations of pre-existing

one or two family buildings and/or one or two family dwellings, that existed or exist in substantially the same dimensions, size, shape, form and use during or immediately prior to October 29, 2012, shall comply with all applicable zoning requirements of the City of Long Beach Zoning Code of Ordinances except as specifically modified herein:

(1) *Front yard*. There shall be a front yard, the depth of which shall be at least ten (10) feet back of the street line. In case of a corner lot, the front yard shall be required on each street on which the lot abuts. This, however, shall not prohibit the erection and maintenance of an open porch in such front yard, provided that the same be erected not closer to the front line than one (1) foot.

(i) In the event that the front yard should contain an open porch, support beams for said open porch must not be closer to the front line than three (3) feet.

(2) *Side yard*. There shall be a side yard along each side lot line and it shall be at least four (4) feet in width on each side of the building, and extend unobstructed from the front yard to the rear yard, except where a pre-existing entrance to a one or two family dwelling existing prior to October 29, 2012, the installation of a wooden staircase and landing, in compliance with the minimum dimensions permitted by the New York State Residential Code, may be permitted to be erected on a single side yard only.

(Ord. No. 1700/89, § 6, 5-16-89; Ord. No. 1731/90, §§ 3, 4, 8-7-90; Ord. No. 1774/92, § 1, 4-7-92; Ord. No. 1867/96, §§ 1, 2, 10-1-96; Ord. No. 2078/13, § 1,1/18/2013; Ord. No. 3000/16, § 1 ,2/16/2016)

Sec. 9-105.6. Residence EE District.

(a) *Uses.* Within any Residence EE District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A federal, state, county, municipal or public utility building or structure, if approved by the board of appeals as hereinafter provided.

(3) Municipal recreation building, playground or park.

(4) College, library, fire station or school.

(5) Church or other place of worship, convent, parish house or Sunday school building.

(6) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be two (2) stories and an attic above a basement or cellar, but not over twenty (20) feet.

(c) *Front yard.* There shall be a front yard, the depth of which shall be at least five

(5) feet back of the street line. In case of a corner lot, a front yard shall be required on each street on which the lot abuts.

(d) *Side yard.* There shall be a side yard along each side lot line and it shall be at least twenty (20) feet in width on each side of the building, and extend unobstructed from the front yard to the rear yard.

(e) *Rear yard.* There shall be a rear yard on every lot and it shall be at least four (4) feet deep behind the building.

(f) *Building area.* The building area shall not be less than thirty (30) per cent of the minimum required lot area, nor shall the building area exceed forty-three (43) per cent of the total lot area.

(g) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high.

(h) *Density.* No building shall be erected or altered to make provision for more than one family for each four thousand five hundred-sixty (4,560) square feet of the area of the lot.

(i) *Minimum lot size.* The minimum lot size shall be eighty (80) by fifty-seven (57) feet.

(j) *Existing two-family structure.* Notwithstanding any of the provisions set forth in this section, two-family dwelling structures are to be permitted in that portion of this district which lies south of Walnut Street between Roosevelt and Maple Boulevard, provided that:

(1) Said structure and use as a two-family dwelling shall have existed prior to November 4, 1970; and

(2) Said structure shall conform to the New York State Building Construction Code applicable to two-family dwellings, and to all ordinances of the City of Long Beach, and, further, that a certificate of compliance shall have been obtained within six (6) months after November 4, 1970; and

(3) At least one on-site parking facility shall be provided on the premises; and

(4) Separate egress shall be provided for each dwelling unit; and

(5) All setbacks and other yard and height requirements of the Residence EE District shall apply.

(6) Except as herein provided, this amendment shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time of the enactment of this subsection, but the same may be enjoyed, asserted and enforced, prosecuted or inflicted as fully and to the same extent as if such amendment has not been affected.

(k) Where an owner is permitted to subdivide pursuant to this section, the following requirements shall be adhered to:

(1) Side yards. The side yards on each side lot line must be at least five (5) feet in width on one side of the building and at least eight (8) feet in width on the other side of the building and extend unobstructed from the front

yard to the rear yard.

(2) Building area. The building area shall not be less than forty (40) per cent of the minimum lot area nor shall the building area exceed fifty-seven (57) per cent of the total lot area.

(3) Density. No building shall be erected or altered to make provision for more than one family for each two thousand two hundred and eighty (2,280) square feet of the area of the lot.

(4) Lot size. The minimum lot size shall be forty (40) by fifty-seven (57) feet.

(l) Nothing contained in this section shall prevent the reconstruction, rebuilding, alteration of, addition to, and/or continued use of any building for which a nonconforming status has been created as a result of the change in the minimum lot size, increase in side-yard requirements or change in height limitation. However, nothing in this section shall be construed to enlarge or expand any nonconforming rights created as a result of the change in the minimum lot size, increase in side-yard requirements or change in height limitation.

(m) Nothing contained in this section shall prevent the construction of a one-family detached house for one dwelling unit only within a Residence EE District on a plot of land at least forty (40) by fifty-seven (57) feet and less than eighty (80) by fifty-seven (57) feet which is vacant and not part of a larger parcel of land at the time of the adoption of this section, provided that such one-family detached house has one side yard at least five (5) feet in width and one side yard at least eight (8) feet in width, unobstructed from the front yard to the rear yard, and does not exceed twenty (20) feet in height.

(Ord. No. 1638/87, §§ 1, 2, 10-6-87; Ord. No. 1641/87, § 1, 11-17-87; Ord. No. 1692/89, §§ 1, 2, 4-4-89; Ord. No. 1725/90, § 1, 6-5-90; Ord. No. 1731/90, §§ 5, 6, 8-7-90; Ord. No. 1905/98, § 1, 11-4-98)

Sec. 9-105.7. Residence F District.

(a) *Uses.* Within any Residence F District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A two-family detached for two (2) dwelling units only.

(3) A federal, state, county, municipal or public utility building or structure, if approved by the board of appeals as hereinafter provided.

(4) Municipal recreation building, playground or park.

(5) College, library, fire station or school.

(6) Church or other place of worship, convent, parish house or Sunday school building.

(7) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be two (2) stories and an attic above a basement or cellar, but not over twenty-five (25) feet.

(c) *Front yard.* There shall be a front yard, the depth of which shall be at least twenty (20) feet back of the street line. In case of a corner lot, a front yard shall be required on each street on which the lot abuts.

(d) *Side yard.* There shall be a side yard along each side lot line and it shall be at least five (5) feet in width on one side and eight (8) feet in width on the other side of the building and extend unobstructed from the front yard to the rear yard.

(e) *Rear yard.* There shall be a rear yard on every lot and it shall be at least twenty (20) feet deep behind a building, except that first-story rear projections from the building, not exceeding fifteen (15) feet in height, may extend to within fifteen (15) feet of the rear lot line.

Where a lot is more than one hundred (100) feet deep, one-half of the additional depth of the lot in excess of one hundred (100) feet shall be added to such rear yard depth, but in no case shall a rear yard in excess of forty (40) feet be required.

(f) *Building area.* The building area shall not be less than twenty-five (25) per cent of the minimum required lot area, nor shall the building area exceed forty-five (45) per cent of the total lot area.

(g) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high, may occupy in aggregate not over forty (40) per cent of the required rear yard area.

(h) *Density.* No building shall be erected or altered to make provision for more than two (2) families for each four thousand (4,000) square feet of the area of the lot.

(i) *Minimum lot size.* The minimum lot size shall be forty (40) by one hundred (100) feet.

(j) In the event that an existing building or structure prevents the subdivision of the plot of ground on which it stands into two (2) or more legal building plots, neither such existing building or structure, nor any part thereof, may be demolished nor destroyed to accomplish the subdivision of said plot of land into two (2) or more legal building plots.

(k) Notwithstanding anything in this section to the contrary, no two-family dwelling shall be erected or occupied in the F District unless a building permit or certificate of occupancy had been issued for such two-family dwelling, or such two-family dwelling was otherwise lawful, on January 1, 2000. No building permit shall be issued on or after January 1, 2000 for the construction, creation or erection of a two-family detached dwelling where the land is vacant or contains only a one-family detached dwelling.

(Ord. No. 1700/89, § 7, 5-16-89; Ord. No. 1927/00, § 2, 1-4-00)

Sec. 9-105.8. Residence FF District.

(a) *Uses.* Within any Residence FF District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of

the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A federal, state, county municipal or public utility building or structure, if approved by the board of appeals as hereinafter provided.

(3) Municipal recreation building, playground or park.

(4) College, library, fire station or school.

(5) Church or other place of worship, convent, parish house or Sunday school building.

(6) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be two (2) stories and an attic above a basement or cellar, but not over twenty (20) feet.

(c) *Front yard.* There shall be a front yard, the depth of which shall be at least five (5) feet back of the street line. In case of a corner lot, a front yard shall be required on each street on which the lot abuts.

(d) *Side yard.* There shall be a side yard along each side lot line and it shall be at least twenty (20) feet in width on each side of the building and extend unobstructed from the front yard to the rear yard.

(e) *Rear yard.* There shall be a rear yard on every lot and it shall be at least four (4) feet deep behind the building.

(f) *Building area.* The building area shall not be less than thirty (30) per cent of the minimum required lot area, nor shall the building area exceed forty-one (41) per cent of the total area.

(g) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high.

(h) *Density.* No residence shall be erected or altered to make provision for more than one family for each four thousand three hundred twenty (4,320) square feet of area of the lot.

(i) *Minimum lot size.* The minimum lot size shall be eighty (80) by fifty-four (54) feet.

(j) Nothing contained in this section shall prevent the reconstruction, rebuilding, alteration of, addition to, and/or continued use of any building for which a nonconforming status has been created as a result of the change in the minimum lot size, increase in side-yard requirements or change in height limitation. However, nothing in this section shall be construed to enlarge or expand any nonconforming rights created as a result of the change in the minimum lot size, increase in side-yard requirements or change in height limitation.

(k) Nothing contained in this section shall prevent the construction of a one-family detached house for one dwelling unit only within a Residence FF District on a plot of land at least forty (40) by fifty-four (54) feet and less than eighty (80) by fifty-four (54) feet which is vacant and not part of a larger parcel of land at the time of the adoption of this section, provided that such one-family detached house has one side yard at least five (5) feet in width and one side yard at least

eight (8) feet in width, unobstructed from the front yard to the rear yard.

(Ord. No. 1638/87, § 3, 10-6-87; Ord. No. 1725/90, § 2, 6-5-90; Ord. No. 1731/90, §§ 7, 8, 8-7-90; Ord. No. 1905/98, § 1, 11-4-98)

Sec. 9-105.9. Residence G District.

(a) *Uses.* Within any Residence G District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A federal, state, county, municipal or public utility building or structure, if approved by the board of appeals as hereinafter provided.

(3) Municipal recreation building, playground or park.

(4) College, library, fire station or school.

(5) Church or other place of worship, convent, parish house or Sunday school building.

(6) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be two (2) stories and an attic above a basement or cellar, but not over twenty-five (25) feet.

(c) *Front yard.* There shall be a front yard of at least ten (10) feet. In case of a corner lot, a front yard shall be required on each street on which the lot abuts.

(d) *Side yard.* There shall be a side yard along each side lot line, and it shall be at least five (5) feet in width on one side and eight (8) feet in width on the other side of the building, and extend unobstructed from the front yard to the rear yard.

(e) *Rear yard.* There shall be a rear yard on every lot and it shall be at least fifteen (15) feet deep behind a building.

(f) *Building area.* No building or structure erected shall occupy more than fifty-five (55) per cent of the area of the lot.

(g) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high, may occupy in aggregate not over fifty (50) per cent of the required rear yard area.

(h) *Density.* No building shall be erected or altered to make provision for more than one family for each five thousand eight hundred (5,800) square feet of the area of the lot.

(i) *Minimum lot size.* The minimum lot size shall be forty (40) by one hundred forty-five (145) feet.

Nothing contained in this section shall prevent the reconstruction, rebuilding, alteration of, addition to, and/or continued use of any building for which a nonconforming status is created as the result of the change in the minimum lot size or increase in side yard requirements. Nothing in this section shall be construed to enlarge or expand any

existing nonconforming rights.

(ia) *Construction of one-family, detached houses.* Nothing contained in this section shall prevent the construction of a one-family, detached house for one dwelling unit only within a Residence "G" District on a plot of land at least twenty (20) feet by one hundred forty-five (145) feet and less than forty (40) feet by one hundred forty-five (145) feet which is vacant and not part of a larger parcel of land at the time of the adoption of this subsection, provided that such one-family, detached house does not exceed twenty-five (25) feet in height and has side yards of at least three (3) feet in width on either side unobstructed from the front yard to the rear yard.

(j) *Existing two-family structure.* Notwithstanding any of the provisions set forth in this section, two-family dwelling structures are to be permitted in that portion of this district which lies west of the center line of New York Avenue, provided that:

(1) Said structure and use as a two-family dwelling shall have existed prior to June 8, 1971; and

(2) Said structure shall conform to the New York State Building Construction Code applicable to two-family dwellings, and to all ordinances of the City of Long Beach, and, further, that a certificate of compliance shall have been obtained within thirty (30) days after June 8, 1971; and

(3) At least one on-site parking facility shall be provided on the premises; and

(4) Separate egress shall be provided for each dwelling unit; and

(5) All setbacks and other yard and height requirements of the Residence G District shall apply.

(6) Except as herein provided, this amendment shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time of the enactment of this subsection, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such amendment had not been affected.

(Ord. No. 1753/91, § 1, 5-7-91)

Sec. 9-105.10. Residence H District.

(a) *Uses.* Within any Residence H District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A two-family detached house for two (2) dwelling units only.

(3) A multiple dwelling for three (3) or more dwelling units.

(4) Public park, playground and municipal recreational area when authorized or operated by a municipality, public library or museum.

(5) Church or other place of worship, convent, parish house.

(6) Other accessory uses and buildings including a private garage, not over fifteen (15) feet high, used for storage of passenger vehicles provided such uses are incidental to the principal use, but such uses shall not include any activity conducted as a business.

(b) *Height.* The limit of height of a building shall be three (3) stories above a basement or cellar, but not over thirty-five (35) feet above grade level.

(c) *Lot area.* No multiple dwelling shall be erected or altered on a lot having an area of less than ten thousand (10,000) square feet, provided, however, that a one-family detached house for one dwelling unit only may be built upon a lot having an area of four thousand (4,000) square feet and a two-family detached house for two (2) dwelling units only may be erected or altered on a lot having an area of six thousand (6,000) square feet.

(d) *Building area.* Total building area for a multiple dwelling, including garage space, shall not exceed thirty-five (35) per cent of the total lot area, provided, however, that the total building area for a one-family detached house for one dwelling unit shall not be less than twenty-five (25) per cent of said lot area nor exceed forty-five (45) per cent of said total lot area; and, provided, further, that the total building area for a two-family detached house for two (2) dwelling units shall not be less than twenty-five (25) per cent of the total lot area nor exceed thirty-five (35) per cent of said total lot.

(e) *Front yard.* There shall be a front yard of at least ten (10) feet. In case of a corner lot, a front yard shall be required on each street on which the lot abuts.

(f) *Side yard.* As to a one-family detached house for one dwelling unit, or a two-family detached house for two (2) dwelling units, there shall be a side yard along each side lot line, which shall be at least five (5) feet in width on one side and eight (8) feet in width on the other side of the building.

As to a multiple dwelling, there shall be a side yard along each side lot line and it shall be at least fifteen (15) feet in width.

All side yards shall extend unobstructed and unencumbered above grade level from the front yard to the rear yard. There shall be no parking of motor vehicles in front and/or side yards.

(g) *Rear yard.* There shall be a rear yard on every lot and it shall be at least twenty (20) feet deep behind the building.

Where a lot is more than one hundred (100) feet deep, one-half of the additional depth of the lot in excess of one hundred (100) feet shall be added to such rear yard depth, but in no case shall a rear yard depth in excess of thirty (30) feet be required.

(h) *Distance between buildings.* There shall be a minimum of twenty-five (25) feet between principal buildings erected on the same lot or plot and a distance of at least fifteen (15) feet between the principal building and any accessory building.

No row of one-family or two-family attached buildings shall exceed three (3) buildings and shall not be greater than seventy-five (75) feet in length. There shall be a minimum of twenty (20) feet between one row of attached buildings and another row of attached buildings.

(i) *Density.* No multiple dwelling shall be erected or altered to make provision for

more than one family for each one thousand (1,000) square feet of the area of the lot. No multiple dwelling shall contain more than twelve (12) dwelling units nor shall a multiple dwelling hereafter be erected or altered in which the minimum habitable floor area for each dwelling unit is less than four hundred (400) square feet.

(j) *Recreation areas.* No multiple dwelling units shall be erected without providing for a minimum area for recreation and children's play areas at a ratio of fifty (50) square feet for each dwelling unit, provided, however, that off-street parking areas shall not be included in the computation of the areas required to be furnished for recreational purposes.

(k) *Off-street parking areas.* A paved off-street parking area shall be provided at a ratio of one and one-quarter (1.25) spaces for each studio dwelling unit; one and one-half (1.5) spaces for each one-bedroom dwelling unit; and two (2) spaces for each dwelling unit of two (2) bedrooms and more. In no case shall the total off-street parking provided comprise less than one and three-quarter (1.75) parking spaces for each dwelling unit. In the case of a multiple dwelling containing more than ten (10) units, twenty-five (25) per cent of required off-street parking facilities may be provided off-site, but in no event shall be located more than five hundred (500) feet from the parking generator.

Sec. 9-105.11. Residence J District.

(a) *Uses.* Within any Residence J District no building or premises shall be erected or altered, used or maintained, unless otherwise provided for in this ordinance, except for one or more of the following uses:

(1) A one-family detached house for one dwelling unit only.

(2) A two-family detached house for two (2) dwelling units only.

(3) A multiple dwelling for three (3) or more dwelling units.

(4) Public park, playground and municipal recreational area when authorized or operated by a municipality, public library or museum.

(5) Church or other place of worship, convent, parish house.

(6) Other accessory uses and buildings including a private garage, not over twelve (12) feet high, used for storage of passenger vehicles provided such uses are incidental to the principal use, but such uses shall not include any activity conducted as a business.

(b) *Height.* The height of a building shall not exceed three (3) stories above a basement or cellar, but shall in no event exceed thirty-five (35) feet above grade level, provided, however that the height of a one-family detached dwelling or a two-family detached dwelling constructed on or after January 1, 2000 shall not exceed twenty five (25) feet above grade level.

(c) *Lot area.* No multiple dwelling shall be erected or altered on a lot having an area of less than ten thousand (10,000) square feet, provided, however, that a one-family detached house for one dwelling unit only may be built upon a lot having an area of four thousand (4,000) square feet and a two-family detached house for two (2) dwelling units only may be erected or altered on a lot having an area

of six thousand (6,000) square feet.

(d) *Building area.* Total building area for a multiple dwelling, including garage space, shall not exceed thirty-five (35) per cent of the total lot area, provided, however, that the total building area for a one-family detached house for one dwelling unit shall not be less than twenty-five (25) per cent of said lot area nor exceed forty-five (45) per cent of said total lot area; and, provided, further, that the total building area for a two-family detached house for two (2) dwelling units shall not be less than twenty-five (25) per cent of the total lot area nor exceed thirty-five (35) per cent of said total lot area.

(e) *Front yard.* There shall be a front yard the depth of which shall be at least ten (10) feet from the street line. In case of a corner lot, the front yard shall be required on each street on which the lot abuts.

(f) *Side yards.* As to a one-family detached house for one dwelling unit, or a two-family detached house for two (2) dwelling units, there shall be a side yard along each side lot line, which shall be at least five (5) feet in width on one side, and eight (8) feet in width on the other side of the building.

As to a multiple dwelling, there shall be a side yard along each side lot line and it shall be at least fifteen (15) feet in width.

All side yards shall extend unobstructed and unencumbered from the front yard to the rear yard. There shall be no parking of motor vehicles in front and/or side yards.

(g) *Rear yards.* There shall be a rear yard on every lot and it shall be at least twenty (20) feet deep and shall remain open and unobstructed.

(h) *Distance between buildings.* There shall be a minimum of twenty-five (25) feet between principal buildings erected on the same lot or plot and a distance of at least fifteen (15) feet between the principal building and any accessory building.

No row of one-family or two-family attached buildings shall exceed three (3) buildings and shall not be greater than seventy-five (75) feet in length. There shall be a minimum of twenty (20) feet between one row of attached buildings and another row of attached buildings.

(i) *Density.* No multiple dwelling shall be erected to make provision for more than one family for each one thousand (1,000) square feet of the area of the lot. No multiple dwelling shall contain more than twelve (12) dwelling units nor shall a multiple dwelling hereafter be erected or altered in which the minimum habitable floor area for each dwelling unit is less than four hundred (400) square feet.

(j) *Recreation areas.* No multiple dwelling units shall be erected without providing for a minimum area for recreation and children's play areas at a ratio of fifty (50) square feet for each dwelling unit, provided, however, that off-street parking areas shall not be included in the computation of the areas required to be furnished for recreational purposes.

(k) *Off-street parking areas.* A paved off-street parking area shall be provided at a ratio of one and one-quarter (1.25) spaces for each studio dwelling unit; one and one-half (1.5) spaces for each one-bedroom dwelling unit; and two (2) spaces for each dwelling unit of two (2) bedrooms and more. In no case shall the total off-street parking provided comprise less than one and three-quarter (1.75) parking

spaces for each dwelling unit. In the case of a multiple dwelling containing more than ten (10) units, twenty-five (25) per cent of required off-street parking facilities may be provided off-site, but in no event shall be located more than five hundred (500) feet from the parking generator.

(Ord. No. 1927/00, § 1, 1-4-00)

Sec. 9-105.12. Residence K District.

(a) *Uses.* Within any Residence K District no building or premises shall be erected or altered, used or maintained, unless otherwise provided for in this ordinance except for one or more of the following uses:

(1) A one-family detached house for one dwelling unit only.

(2) A two-family detached house for two (2) dwelling units only.

(3) A multiple dwelling for three (3) or more dwelling units.

(4) Public park, playground and municipal recreational area when authorized or operated by a municipality, public library or museum.

(5) Church or other place of worship, convent, parish house.

(6) Other accessory uses and buildings including a private garage, not over twelve (12) feet high, used for storage of passenger vehicles provided such uses are incidental to the principal use, but such uses shall not include any activity conducted as a business.

(b) *Height.* The height of a building shall not exceed three (3) stories above a basement or cellar, but shall in no event exceed forty (40) feet above grade level, provided, however that the height of a one-family detached dwelling or a two-family detached dwelling constructed on or after January 1, 2000 shall not exceed twenty five (25) feet above grade level.

(c) *Lot area.* No multiple dwelling shall be erected or altered on a lot having less than twenty-five thousand (25,000) square feet, provided, however, that a one-family detached house for one dwelling unit only may be built upon a lot having an area of four thousand (4,000) square feet and a two-family detached house for two (2) dwelling units only may be erected or altered on a lot having an area of six thousand (6,000) square feet.

(d) *Building area.* Total building area for a multiple dwelling shall not exceed thirty-five (35) per cent of the total lot area, provided, however, that the total building area for a one-family detached house for one dwelling unit shall not be less than twenty-five (25) per cent of said lot area nor exceed forty-five (45) per cent of said total lot area; and, provided, further, that the total building area for a two-family detached house for two (2) dwelling units shall not be less than twenty-five (25) per cent of the total lot area nor exceed thirty-five (35) per cent of the total lot area.

(e) *Front yards.* There shall be a front yard the depth of which shall be at least ten (10) feet from the street line, or where the property fronts on the Ocean Beach Park, the depth of which shall be at least twenty (20) feet from the property line. In case of a corner lot, the front yard shall be required on each street on which

the lot abuts. In the event the property line abuts on the Ocean Beach Park and a street, or is a through lot abutting two (2) streets, a front yard shall be required on each. Front yards shall be defined as those yards abutting the Ocean Beach Park, Shore Road, and Broadway.

(f) *Side yards.* There shall be a side yard along each side lot line and it shall be at least fifteen (15) feet in width on each side, unobstructed and unencumbered above the grade level from the front yard to the rear yard.

In addition, open yards unobstructed except as specified in this subsection, shall be provided from the front line to the rear lot line through no less than sixty-five (65) per cent of the width of the lot on which the structures are erected. These yards may be between principal structures and side lot lines, and between principal structures. No buildings, structures, or uses may occupy such yards except the following:

(1) Off-street parking facilities, including structures meeting all other city regulations and extending not more than twelve (12) feet above grade level. However, no off-street parking shall be permitted within fifteen (15) feet of any side lot line.

(2) Swimming pools and other recreation facilities incident to a residential building on the same lot, including cabanas and other related facilities, extending not more than twelve (12) feet above grade level.

(3) Ornamental landscaping and areas for passive recreation.

(4) Other uses or structures otherwise complying with all other city ordinances and deemed by the building commissioner to be in accordance with the purpose of this section.

Notwithstanding any of the provisions of this section, the fifteen-foot side yard requirement shall remain unobstructed and unencumbered.

As to a one-family detached house for one dwelling unit, or a two-family detached house for two (2) dwelling units, there shall be a side yard along each side lot line, which shall be at least five (5) feet in width on one side and eight (8) feet in width on the other side of the building. All side yards shall extend unobstructed and unencumbered above grade level from the front yard to the rear yard. There shall be no parking of motor vehicles in side yards.

(g) *Rear yards.* There shall be a rear yard on every lot and it shall be at least twenty (20) feet deep and shall remain open and unencumbered.

(h) *Distance between buildings.* There shall be a minimum of forty (40) feet between principal buildings erected on the same lot and a distance of at least fifteen (15) feet between the principal building and any accessory building.

No row of one-family or two-family attached buildings shall exceed three (3) buildings and shall not be greater than seventy-five (75) feet in length. There shall be a minimum of twenty (20) feet between one row of attached buildings and another row of attached buildings.

(i) *Density.* No multiple dwelling shall be erected to make provision for more than one dwelling unit for each one thousand (1,000) square feet of lot area. Habitable floor area for each dwelling unit shall be not less than five hundred (500) square feet.

Sec. 9-105.12. Residence K District.

(j) *Recreation areas.* No multiple dwelling units shall be erected without providing for a minimum area for recreation and children's play areas at a ratio of fifty (50) square feet for each dwelling unit, provided, however, that off-street parking areas shall not be included in the computation of the areas required to be furnished for recreational purposes.

(k) *Off-street parking areas.* A paved off-street parking area shall be provided at a ratio of one and one-quarter (1.25) spaces for each studio dwelling unit; one and one-half (1.5) spaces for each one-bedroom dwelling unit; and two (2) spaces for each dwelling unit of two (2) bedrooms and more. In no case shall the total off-street parking provided comprise less than one and three-quarter (1.75) parking spaces for each dwelling unit. In the case of a multiple dwelling containing more than ten (10) units, twenty-five (25) per cent of required off-street parking facilities may be provided off-site, but in no event shall be located more than five hundred (500) feet from the parking generator.

(Ord. No. 1927/00, § 1, 1-4-00)

Sec. 9-105.13. Residence L District.

(a) *Uses.* No building or premises shall be erected or altered, used or maintained, unless otherwise provided for in this ordinance, except for one or more of the following uses:

(1) A one-family detached house for one dwelling unit only.

(2) A two-family detached house for two (2) dwelling units only.

(3) A multiple dwelling for three (3) or more dwelling units only.

(4) Public park, playground and municipal recreational area when authorized or operated by a municipality, public library or museum.

(5) Church or other house of worship, convent, parish house.

(6) Other accessory uses and buildings including a private garage, not over twelve (12) feet high, used for storage of passenger vehicles provided such uses are incidental to the principal use, but such uses shall not include any activity conducted as a business.

(b) *Height.* The height of a building shall not exceed seventy (70) feet above grade level, provided, however that the height of a one-family detached dwelling or a two-family detached dwelling constructed on or after January 1, 2000 shall not exceed twenty five (25) feet above grade level.

(c) *Lot area.* No multiple dwelling shall be erected or altered on a lot having an area of less than forty thousand (40,000) square feet, provided, however, that a one-family detached house for one dwelling unit only may be built upon a lot having an area of four thousand (4,000) square feet and a two-family detached house for two (2) dwelling units only may be erected or altered on a lot having an area of six thousand (6,000) square feet.

(d) *Building area.* Total building area for a multiple dwelling shall not exceed twenty (20) per cent of the total lot area, provided, however, that the total building area for a one-family detached house for one dwelling unit shall not be less than

twenty-five (25) per cent of said lot area nor exceed forty-five (45) per cent of said total lot area; and, provided, further, that the total building area for a two-family detached house for two (2) dwelling units shall not be less than twenty-five (25) per cent of the total lot area nor exceed thirty-five (35) per cent of said total lot area.

(e) *Front yards.* There shall be a front yard the depth of which shall be at least ten (10) feet from the street line or where the property fronts on the Ocean Beach Park, the depth of which shall be at least twenty (20) feet from the property line. In case of a corner lot, the front yard shall be required on each street on which the lot abuts. In the event the property line abuts on the Ocean Beach Park and a street, or is a through lot abutting two (2) streets, a front yard shall be required on each. Front yards shall be defined as those yards abutting the Ocean Beach Park, Shore Road, and Broadway.

(f) *Side yards.* There shall be a side yard along each side lot line equal to not less than one-half the height of the principal building on the lot nearest to the lot line. In addition, open yards, unobstructed except as specified in this subsection, shall be provided from the front lot line to the rear lot line through not less than seventy (70) per cent of the width of the lot on which the principal buildings are erected. These yards may be between principal buildings and side lot lines, and between principal buildings proper. No buildings, structures or uses may occupy such yards except the following:

(1) Off-street parking facilities, including structures meeting all other city regulations and extending not more than twelve (12) feet above grade level. However, no off-street parking shall be permitted within fifteen (15) feet of any side lot line.

(2) Swimming pools and other recreation facilities incident to a residential building on the same lot, including cabanas and other related facilities meeting all other city regulations, and extending not more than twelve (12) feet above grade level.

(3) Ornamental landscaping and areas for passive recreation.

(4) Other uses or structures otherwise complying with all other city ordinances and deemed by the building commissioner to be in accordance with the purposes of this section.

Notwithstanding any of the provisions of this section, the first fifteen (15) feet immediately adjacent to the property line, running from the front lot line to the rear lot line, shall remain open and unobstructed.

As to a one-family detached house for one dwelling unit, or a two-family detached house for two (2) dwelling units, there shall be a side yard along each side lot line, which shall be at least five (5) feet in width on one side and eight (8) feet in width on the other side of the building. All side yards shall extend unobstructed and unencumbered above grade level from the front yard to the rear yard. There shall be no parking of motor vehicles in side yards.

(g) *Rear yards.* There shall be a rear yard in every lot and it shall be at least twenty (20) feet deep and shall remain open and unobstructed.

(h) *Distance between buildings.* There shall be a minimum distance between

principal buildings on the same lot equal to the average of the heights of the two (2) buildings. The minimum distance between a principal building and any accessory building shall be fifteen (15) feet.

No row of one-family or two-family attached buildings shall exceed three (3) buildings and shall not be greater than seventy-five (75) feet in length. There shall be a minimum of twenty (20) feet between one row of attached buildings and another row of attached buildings.

(i) *Density.* No multiple dwelling shall be erected to make provision for more than one dwelling unit per eight hundred (800) square feet of lot area. Habitable floor area in each dwelling unit shall be not less than four hundred (400) square feet.

No one-family or two-family attached dwellings shall be erected to make provision for more than one family for each one thousand (1,000) square feet of the area of the lot.

No one-family dwelling shall be erected to make provision for more than one family for each four thousand (4,000) square feet of the area of the lot nor shall a two-family dwelling be erected to make provision for more than two (2) families for each six thousand (6,000) square feet of the area of the lot.

(j) *Recreation area.* No multiple dwelling unit shall be erected without providing for recreation and children's play areas at a ratio of fifty (50) square feet for each dwelling unit, provided, however, that off-street parking areas shall not be included in the computation of the areas required to be furnished for recreational purposes.

(k) *Off-street parking.* A paved off-street parking area shall be provided at a ratio of one and one-quarter (1.25) spaces for each studio dwelling unit; one and one-half (1.5) spaces for each one-bedroom dwelling unit; and two (2) spaces for each dwelling unit of two (2) bedrooms and more. In no case shall the total off-street parking provided comprise less than one and three-quarter (1.75) parking spaces for each dwelling unit. In the case of a multiple dwelling containing more than ten (10) units, twenty-five (25) per cent of required off-street parking facilities may be provided off-site, but in no event shall be located more than five hundred (500) feet from the parking generator.

(Ord. No. 1927/00, § 1, 1-4-00)

Sec. 9-105.14. Residence-Business A District.

(a) *Uses.* Within any Residence-Business A District, no building or premises shall be erected or altered, used or maintained, which is intended to be used in whole or in part for other than one or more of the following uses:

(1) A one-family detached house for one dwelling unit only.

(2) A two-family detached house for two (2) dwelling units only.

(3) A multiple dwelling for three (3) or more dwelling units.

(4) Public park, playground and municipal recreational area when authorized or operated by a municipality, public library or museum.

(5) Church or other place of worship, convent, parish house.

(6) Other accessory uses and buildings including a private garage, not over twelve (12) feet high, used for storage of passenger vehicles provided such uses are incidental to the principal use, but such uses shall not include any activity conducted as a business.

(7) Retail and commercial services serving the residents of the immediate neighborhood. Such uses as specified below shall not exceed three thousand (3,000) square feet in total floor area. They shall include:

Grocery and other food stores;

Men's and women's clothing;

Books and records;

Arts and crafts;

Drug stores;

Gifts;

Florists;

Laundry and dry cleaning pick-up;

Barber and beauty shops;

Branch post office;

Travel agents;

Bank branch;

Such retail and sales and services shall, whenever possible, be located within a residential building or complex, or a hotel.

(8) Restaurants.

(9) Commercial activities serving tourists and visitors shall include the following:

Small restaurants, soda fountains, ice cream stores, and the like;

Souvenir and gift shops;

Arts and crafts.

(10) Hotels, on a lot containing not less than five hundred (500) square feet of ground area for each guest room or suite in the hotel.

(11) Bowling alleys, health studios, and similar commercial recreational and fitness activities.

(12) Mixed use development of a large tract of land with a variety of complementary and integrated uses, such as, but not limited to, residential, hotel, retail, public, or entertainment, in a compact urban form, subject to the approval of the City Council of the City of Long Beach as per the specific standards for mixed use development set forth below.

(b) *Height.* The height of a building shall not exceed one hundred (100) feet above grade level, provided, however that the height of a one-family detached dwelling

or a two-family detached dwelling constructed on or after January 1, 2000 shall not exceed twenty five (25) feet above grade level. No commercial use except a restaurant or a hotel shall be located above the lowest habitable floor of any building. For mixed use developments, the maximum height shall be one hundred and ten (110) feet above grade level.

(c) *Community Benefit Bonuses (CBB)*. Community Benefit Bonuses offer the ability to develop beyond the height/bulk and density standards of this section in exchange for investment in public benefits. In accordance with the requirements of the Community Benefit Bonus Program, multiple dwellings and mixed use developments may be granted up to three additional bonus stories (maximum of up to forty-two (42) additional feet of building height). Multiple dwellings may be eligible for one additional bonus story (maximum of ten (10) feet of additional building height) with a maximum building area not to exceed ten (10%) percent of the lot area. The maximum density for multiple dwelling and mixed use developments may be increased by a maximum of thirty (30) percent through the Community Benefit Bonus Program. Additionally, yards/building setbacks and parking stall size may be reduced, as recommended by the Commissioner of Buildings and approved by the City Council, based upon consideration of compatibility of adjacent buildings and structures, current setbacks of existing buildings in the area, vehicle and pedestrian access, visual access, lighting, drainage and utilities, public safety, whether reduced setbacks would fulfill the intent and purpose of this article..

(d) *Step back*. For any multiple dwelling or mixed use development building proposed within twenty (20) feet of the property line along the street line, the fourth story and all stories above fronting the street line, inclusive of stories utilized for parking, must be set back a minimum fifteen (15) feet from the front of the building.

(e) *Lot area*. No multiple dwelling shall be erected or altered on a lot or development site having an area of less than forty thousand (40,000) square feet, provided, however, that a one-family detached house for one dwelling unit only may be built upon a lot having an area of four thousand (4,000) square feet, and a two-family detached house for two (2) dwelling units only may be erected or altered on a lot having an area of six thousand (6,000) square feet. Further, no mixed use development shall be erected or altered on a lot or a development site having an area less than three (3) acres. Lots/development sites must have a minimum area of 40,000 square feet to be eligible for Community Benefit Bonuses.

(f) *Building area*. Total building area for a multiple dwelling shall not exceed twenty (20) per cent of the total lot area/development site area, excluding any platform structure with covered parking and other accessory uses of less than thirty (30) feet in height, which shall not be included in the twenty (20%) percent coverage. The total building area for a one-family detached house for one dwelling unit shall not be less than twenty-five (25%) percent of said lot area nor exceed forty-five (45%) percent of said total lot area; and, provided, further, that the total building area for a two-family detached house for two (2) dwelling units shall not be less than twenty-five (25%) percent of the total lot area nor exceed thirty-five (35%) percent of said total lot area. Additionally, the total building area for a mixed use development shall not exceed twenty-five (25%) percent of the total lot

area/development site area, excluding any platform structure with covered parking and other accessory uses and certain principal uses, such as restaurants, retail shops, and catering facilities that strengthen street-level activity, of less than thirty (30) feet in height, which shall not be included in the twenty-five (25%) percent coverage. When calculating building area, the total lot area/site development area shall include contiguous and/or adjacent lots commonly owned on either side of Shore Road.

(g) *Front yard*. There shall be a front yard the depth of which shall be at least ten (10) feet from the street line or where the property fronts on the Ocean Beach Park, the depth of which shall be at least twenty (20) feet from the property line. In case of a corner lot, the front yard shall be required on each street on which the lot abuts. In the event the property line abuts on the Ocean Beach Park and a street, or is a through lot abutting two (2) streets, a front yard shall be required on each. Front yards shall be defined as those yards abutting the Ocean Beach Park, Shore Road, and Broadway. As to multiple dwelling or mixed use developments located adjacent to Ocean Beach Park, if significant portions of the lot area, as recommended by the Commissioner of Buildings and determined by the City Council of the City of Long Beach, are used to provide "public areas," adjacent to, and at or above the existing Boardwalk level: the required front yard, where the property fronts Ocean Beach Park, may be reduced to zero (0) feet. For purposes of this provision, public areas shall be defined as parks, plazas, playgrounds, walkways, and other recreational areas and open spaces; significant view-sheds; and other features where the public is directly or indirectly drawn to visit or permitted to congregate within the mixed use development. In accordance with the requirements of the Community Benefit Bonus Program, front yards may be reduced, as recommended by the Commissioner of Buildings and approved by the City Council, based upon consideration of compatibility of adjacent buildings and structures, current setbacks of existing buildings in the area, vehicle and pedestrian access, visual access, lighting, drainage and utilities, public safety, whether reduced setbacks would fulfill the intent and purpose of this article..

(h) *Side yards*. There shall be a side yard along each side lot line equal to not less than fifty (50) feet per side yard for multiple dwelling and mixed use developments. In addition, open yards, unobstructed except as specified in this subsection, shall be provided from the front lot line to the rear lot line through not less than seventy (70) per cent of the width of the lot on which the principal buildings are erected. These yards may be between principal buildings and side lot lines, and between principal buildings. No buildings, structures or uses may occupy such yards except the following: No buildings, structures or uses may occupy such yards except the following:

(1) Off-street parking facilities, including structures meeting all other city regulations and extending not more than twelve (12) feet above grade level. However, no off-street parking shall be permitted within fifteen (15) feet of any side lot line.

(2) Swimming pools and other recreation facilities incident to a residential building on the same lot, including cabanas and other related facilities meeting all other city regulations, and extending not more than twelve (12) feet above grade level.

Sec. 9-105.14. Residence-Business A District.

(3) Ornamental landscaping and areas for passive recreation.

(4) Other uses or structures otherwise complying with all city ordinances and deemed by the building commissioner to be in accordance with the purposes of this section.

Notwithstanding any of the provisions of this section, the first fifteen (15) feet immediately adjacent to the property line, running from the front lot line to the rear lot line, shall remain open and unobstructed.

As to a one-family detached house for one dwelling unit, or a two-family detached house for two (2) dwelling units, there shall be a side yard along each side lot line, which shall be at least five (5) feet in width on one side and eight (8) feet in width on the other side of the building. All side yards shall extend unobstructed and unencumbered above grade level from the front yard to the rear yard. There shall be no parking of motor vehicles in side yards. As to multiple dwellings or mixed use developments located adjacent to Ocean Beach Park, if significant portions of the lot area, as recommended by the Commissioner of Buildings and determined by the City Council of the City of Long Beach, are used to provide "public areas," adjacent to, and at or above the existing Boardwalk level: the required open yards shall be reduced to not less than sixty (60%) percent of the width of the lot on which the principal buildings are erected; there shall only be required a side yard along each side lot line, which shall be at least fifteen (15) feet on each side; and, accessory buildings including parking structures, that meet all other city regulations, may occupy such open yards, provided they extend not more than thirty (30) feet above grade level. All side yards shall extend unobstructed and unencumbered above grade level from the front yard to the rear yard. In accordance with the requirements of the Community Benefit Bonus Program, side yards or yard obstructions may be reduced and parking structures may be granted additional height above grade level to increase available parking, as recommended by the Commissioner of Building and approved by the City Council, based upon consideration of compatibility of adjacent buildings and structures, current setbacks of existing buildings in the area, vehicle and pedestrian access, visual access, lighting, drainage and utilities, public safety, whether reduced setbacks would fulfill the intent and purpose of this article.

(i) *Rear yards*. There shall be a rear yard in every lot and it shall be at least twenty (20) feet deep. In accordance with the requirements of the Community Benefit Bonus Program, rear yards may be reduced, as recommended by the Commissioner of Buildings and approved by the City Council, based upon consideration of compatibility of adjacent buildings and structures, current setbacks of existing buildings in the area, vehicle and pedestrian access, visual access, lighting, drainage and utilities, public safety, whether reduced setbacks would fulfill the intent and purpose of this article.

(j) *Distance between buildings*. There shall be a minimum distance between principal buildings on the same lot equal to the average of the heights of the two (2) buildings, exclusive of the first five feet of balconies projecting from the building wall. The minimum distance between a principal building and any accessory building shall be fifteen (15) feet. In accordance with the requirements of the Community Benefit Bonus Program, distance between buildings may be reduced, as recommended by the Commissioner of Buildings and approved by

the City Council, based upon consideration of compatibility of adjacent buildings and structures, current setbacks of existing buildings in the area, vehicle and pedestrian access, visual access, lighting, drainage and utilities, public safety, whether reduced setbacks would fulfill the intent and purpose of this article.

No row of one-family or two-family attached buildings shall exceed three (3) buildings and shall not be greater than seventy-five (75) feet in length. There shall be a minimum of twenty (20) feet between one row of attached buildings and another row of attached buildings. As to multiple dwelling and mixed use development, there shall be a minimum distance between the principal buildings on the same lot equal to one-half (1/2) the average of the heights of the two (2) buildings, exclusive of the first five (5) feet of balconies from the building wall.

(k) *Density*. No multiple dwelling or mixed use development shall be erected or altered to make provision for more than one dwelling unit per six hundred (600) square feet of lot/development site area, except that the maximum density for multiple dwelling or mixed use developments may be increased a maximum of thirty (30%) percent in accordance with the requirements of the Community Benefit Bonus Program. For purposes of this provision, the total lot area/site development area shall include contiguous and/or adjacent lots commonly owned on either side of Shore Road. Habitable floor area in each dwelling unit shall be not less than four hundred (400) square feet.

No one-family or two-family attached dwellings shall be erected to make provision for more than one family for each one thousand (1,000) square feet of the area of the lot.

No one-family dwelling shall be erected to make provision for more than one family for each four thousand (4,000) square feet of the area of the lot nor shall a two-family dwelling be erected to make provision for more than two (2) families for each six thousand (6,000) square feet of the area of the lot..

(l) *Recreation areas*. No multiple dwelling units shall be erected without providing for a minimum area for recreation and children's play areas at a ratio of fifty (50) square feet for each dwelling unit, provided, however, that off-street parking areas shall not be included in the computation of the areas required to be furnished for recreational purposes.

(m) *Off-street parking areas*. A paved off-street parking area shall be provided at a ratio of one and one-quarter (1.25) spaces for each studio dwelling unit; one and one-half (1.5) spaces for each one-bedroom dwelling unit; and two (2) spaces for each dwelling unit of two (2) bedrooms and more. In no case shall the total off-street parking provided comprise less than one and three-quarter (1.75) parking spaces for each dwelling unit. In the case of multiple dwellings containing more than ten (10) units, twenty-five (25%) percent of required off-street parking facilities may be provided off-site, but in no event shall be located more than five hundred (500) feet from the parking generator. In accordance with the requirements of the Community Benefit Bonus Program, up to thirty (30%) percent of the required parking stalls may be reduced in size to compact parking stalls, as recommended by the Commissioner of Buildings and approved by the City Council.

Off-street parking for commercial establishments shall be provided in accordance with the off-street parking regulations as set forth in subsection 9-112 of this.

ordinance

(n) *Impacts on infrastructure*. All applications for multiple dwelling or mixed use developments must include an infrastructure analysis of City utilities (sanitary wastewater and water demand) to evaluate the City's infrastructure capacity and ability to support new development within the Residence-Business A District, at the cost of the applicant(s). Should infrastructure capacity be inadequate to support the new development, the applicant(s) shall be required to either fund/construct the necessary improvements to impacted infrastructure to accommodate the project or provide fair share contributions to mitigate the impact on said infrastructure in accordance with the requirements as recommended by the City's Commissioner of Public Works and approved by the City Council.

(Ord. No. 1927/00, § 1, 1-4-00; Ord. No. 1957/02, § 1, 6-18-02; Ord. No. 3066/22, § 1, 8-16-2022)

Sec. 9-105.15. Business A District.

(a) *Uses.* Within any Business A District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A market, restaurant, store or other retail business or service, bank, office, place of assembly, except that no "open-front" store, retail business or service, office, or place of assembly shall be permitted. A public garage or a gasoline filling station shall not be permitted in the Business A District.

(2) Any manufacturing on the same premises with and clearly incidental to one of the above uses, provided that it does not occupy more than twenty-five (25) per cent of a building or the part thereof occupied by such use, and provided further that the major part of any products manufactured are to be sold at retail on the premises. Any use which would be injurious, noxious or offensive to the neighborhood by reason of dust, fumes, gas, noise, odor, smoke or vibration shall not be permitted.

(b) *Front yard.* There shall be a front yard of at least five (5) feet.

(c) *Rear yard.* There shall be a rear yard, the depth of which shall be at least ten (10) feet.

(d) *Side yard.* There shall be a side yard on each corner lot and it shall extend at least seven (7) feet in width on the side of the building extending along the side street the full length of the lot.

(e) *Building height.* The limit of height of a building shall be two (2) stories above a basement or cellar, but not over twenty-five (25) feet.

(f) *Building area.* Total building area shall not exceed ninety (90) per cent of the total lot area.

(g) *Minimum lot size.* The minimum lot size shall be twenty (20) by one hundred (100) feet.

(h) *Off-street parking.* Off-street parking shall be provided in accordance with the off-street parking regulations as set forth in subsection 9-112 of this ordinance.

(Ord. No. 1915/99, § 1, 6-1-99)

Sec. 9-105.16. Business B District.

(a) *Uses.* Within any Business B District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A market, restaurant, store or other retail business or service, bank, office, place of assembly, except that no "open-front" store, retail business or service, office, or place of assembly shall be permitted. A public garage or a gasoline filling station shall not be permitted in the Business B District.

(2) Any manufacturing on the same premises with and clearly incidental to one of the above uses, provided that it does not occupy more than twenty-five (25) per cent of a building or the part thereof occupied by such use, and provided further that the major part of any products manufactured are to be sold at retail on the premises. Any use which would be injurious, noxious or offensive to the neighborhood by reason of dust, fumes, gas, noise, odor, smoke or vibration shall not be permitted.

(b) *Front yard.* There shall be a front yard of at least five (5) feet.

(c) *Rear yard.* There shall be a rear yard, the depth of which shall be at least ten (10) feet.

(d) *Side yard.* There shall be a side yard on each corner lot and it shall extend at least seven (7) feet in width on the side of the building extending along the side street the full length of the lot.

(e) *Building height.* The limit of height of a building shall be one story above a basement or cellar, but not over eighteen (18) feet.

(f) *Building area.* Total building area shall not exceed ninety (90) per cent of the total lot area.

(g) *Minimum lot size.* The minimum lot size shall be twenty (20) by ninety (90) feet.

(h) *Off-street parking.* Off-street parking shall be provided in accordance with the off-street parking regulations as set forth in subsection 9-112 of this ordinance.

(Ord. No. 1915/99, § 1, 6-1-99)

Sec. 9-105.17. Business C District.

(a) *Uses.* Within any Business C District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is designed or intended to be used in whole or in part for other than one or more of the following specified uses:

(1) A market, restaurant, store or other retail business or service, bank,

office, place of assembly, except that no "open-front" store, retail business or service, office, or place of assembly shall be permitted.

(2) A public garage or a gasoline filling station shall be permitted as a matter of right.

(3) Any manufacturing on the same premises with and clearly incidental to one of the above uses, provided that it does not occupy more than twenty-five (25) per cent of a building or the part thereof occupied by such use, and provided further that the major part of any products manufactured are to be sold at retail on the premises. Any use which would be injurious, noxious or offensive to the neighborhood by reason of dust, fumes, gas, noise, odor, smoke or vibration shall not be permitted.

(b) *Front yard.* There shall be a front yard of at least five (5) feet.

(c) *Rear yard.* There shall be a rear yard, the depth of which shall be at least ten (10) feet.

(d) *Side yard.* There shall be a side yard on each corner lot and it shall extend at least seven (7) feet in width on the side of the building extending along the side street the full length of the lot.

(e) *Building height.* The limit of height of a building shall be two (2) stories above a basement or cellar, but not over twenty-five (25) feet.

(f) *Building area.* Total building area shall not exceed ninety (90) per cent of the total lot area.

(g) *Minimum lot size.* The minimum lot size shall be twenty (20) by one hundred (100) feet.

(h) *Off-street parking.* Off-street parking shall be provided in accordance with the off-street parking regulations as set forth in subsection 9-112 of this ordinance.

(Ord. No. 1915/99, § 1, 6-1-99)

Sec. 9-105.17. Business C District.

Sec. 9-105.18. Industrial District.

(a) *Uses.* Within any Industrial District as indicated on the Building Zone Map, no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for any of the following specified uses:

(1) Acetylene gas manufacture.

(2) Ammonia, chlorine or bleaching powder manufacture.

(3) Animal black, lamp black or bone black manufacture.

(4) Asphalt manufacture or refining.

(5) Blast furnaces.

(6) Boiler works.

(7) Brick, pottery, tile or terra-cotta manufacture.

(8) Coke ovens.

(9) Creosote treatment or manufacture.

(10) Disinfectant, insecticide or poison manufacture.

(11) Distillation of coal, petroleum, refuse, grain, wood or bones, except in the manufacture of gas.

(12) Dye manufacture.

(13) Emery cloth and sandpaper manufacture.

(14) Explosives, manufacture or storage.

(15) Fertilizer manufacture.

(16) Forge plant.

(17) Glue, size or gelatin manufacture where the processes include the refining or recovery of products from fish, animal refuse or offal.

(18) Grease, lard, fat or tallow rendering or refining.

(19) Reduction of rancid fats, garbage, dead animals or offal, except by the municipality or its agents or contractors.

(20) Lime, cement or plaster of Paris manufacture.

(21) Oilcloth or linoleum manufacture.

(22) Paint, oil, varnish, turpentine, shellac or enamel manufacture.

(23) Manufacture, distillation, refining of petroleum, oil, fuel oil, gasoline, kerosene or other petroleum products or derivatives.

(24) Potash works.

(25) Power forging, rivetting, hammering, punching, chipping, drawing, rolling

or tumbling of iron, steel, brass or copper, except as a necessary incident of manufacture of which these processes form a minor part, and which are carried on without objectionable noise outside the plant.

(26) Printing ink manufacture.

(27) Pyroxylin plastic manufacture or the manufacture of articles therefrom.

(28) Rubber or gutta-percha manufacture or treatment.

(29) Shoeblacking or stove-polish manufacture.

(30) Slaughtering of animals or fowl.

(31) Smelting of iron, copper, tin, zinc or lead from ores.

(32) Starch, glucose or dextrin manufacture.

(33) Steel furnace, blooming or rolling mill.

(34) Stockyards.

(35) Sugar refining.

(36) Sulphurous, sulphuric, nitric, picric, carbolic or hydrochloric acid manufacture.

(37) Tar distillation or manufacture.

(38) Tar roofing or waterproofing manufacture.

(39) Wool pulling or scouring.

(40) Yeast plant.

(41) Any other trade or use that is noxious by reasons of the emission of odor.

(42) Storage of gasoline, fuel oil, petroleum or any derivatives or products thereof, the erection and maintenance for the purpose of storage of gas tanks, oil tanks, fuel oil tanks, except as incidental to the retail sale thereof, in which event the maximum capacity on any tanks used for such storage shall not exceed twenty-five thousand (25,000) gallons, and said tanks shall be installed below the predominant or established grade.

(42.1) Storage and/or sale of propane gas for commercial purposes.

(43) Any other trade or use that is unsightly and/or objectionable to the owners of eighty (80) per cent of the frontage deemed by the council of the City of Long Beach to be immediately affected by the proposed use or structure.

Nothing in this section shall be deemed to exclude a central station electric power plant from an Industrial District.

(b) *Building height.* The limit of height of a building in the Industrial District shall be two (2) stories above a basement or cellar, but not over twenty-five (25) feet.

(c) *Front yard.* There shall be a front yard of at least five (5) feet.

(d) *Rear yard.* There shall be a rear yard, the depth of which shall be at least ten (10) feet.

Sec. 9-105.18. Industrial District.

(e) *Building area.* Total building area shall not exceed ninety (90) per cent of the total lot area.

(f) *Off-street parking.* Off-street parking shall be provided in accordance with the off-street parking regulations as set forth in subsection 9-112 of this ordinance.

(Ord. No. 1686/89, § 1, 1-24-89)

Sec. 9-105.19. Residence M District.

(a) *Uses.* Within any Residence M District no building or premises shall be erected or altered, used or maintained, which is intended or designed to be used in whole or in part for other than one or more of the following specified uses:

(1) A one-family detached house for one dwelling unit only.

(2) A federal, state, county, municipal or public utility building or structure, if approved by the board of appeals as hereinafter provided.

(3) Municipal recreation building, playground or park.

(4) College, library, fire station or school.

(5) Church or other place of worship, convent, parish house or Sunday school building.

(6) Accessory uses customarily incident to any use permitted by the provisions of this section.

(b) *Height.* The limit of height of a building shall be two (2) stories and an attic, but not over twenty-five (25) feet.

(c) *Lot area.* The minimum lot size on which any new residential structure may be built shall be not less than forty (40) feet wide, front and rear, nor less than one hundred (100) feet deep on each side.

Nothing contained in this section shall prevent the reconstruction, rebuilding, alteration of, addition to, and/or continued use of any building for which a non-conforming status is created as the result of the change in the minimum lot size. Nothing in this section shall be constructed to enlarge or expand any existing non-conforming rights.

(d) *Building area.* The building area shall not be less than twenty-five (25) per cent of the minimum required lot area, nor shall the building area exceed forty (40) per cent of the total lot area.

(e) *Front yard.* There shall be a front yard of at least twenty (20) feet. In case of a corner lot, a front yard shall be required on each street on which the lot abuts.

(f) *Side yards.* There shall be a side yard along each side lot line, and it shall be at least eight (8) feet in width on one side of the building and at least five (5) feet in width on the other side, and extend unobstructed from the front yard to the rear yard.

(g) *Rear yard.* There shall be a rear yard on every lot, and it shall be at least twenty (20) feet deep behind a building, except that first-story rear projections from the building, not exceeding fifteen (15) feet in height, may extend to within fifteen

(15) feet of the rear lot line.

(h) *Accessory building.* An accessory building for accessory uses permitted herein, including a private garage not over twelve (12) feet high, may occupy in the aggregate not over forty (40) per cent of the required rear yard area.

(i) *Density.* No residence shall be erected or altered to make provision for more than one family for each four thousand (4,000) square feet of the area of the lot.

(j) *Prohibition.* No building or structure shall hereafter be built or altered which shall include or contain a basement or cellar in such building or structure.

Sec. 9-106. General provisions for residence districts.

(a) The following regulations and requirements shall apply to all residence districts.

(1) No commercial vehicle or truck shall stand, stop or be parked on any private driveway for a period of time longer than thirty (30) minutes.

Sec. 9-106.1. General provisions for all districts.

The following regulations shall apply to all districts:

(1) Regardless of specific prior provisions for front yards, the required front yard depth shall be as great as but no greater than the average front yard depth of the buildings within two hundred (200) feet on each side of the lot and within the same block, or if there are no such existing buildings on the same side of the street, the average front yards of the existing building on each side directly opposite the lot.

(2) The locating, housing or parking of any trailer within the confines of the City of Long Beach is hereby prohibited.

(3) The following uses are prohibited:

a. Car washes.

b. Funeral parlors.

c. Pool or billiard parlors.

(4) From and after the enactment of this article, the city clerk shall not issue any license to conduct or operate a bar, grill, tavern, nightclub, supper club, dance hall, place of public entertainment or other establishment serving alcoholic beverages for on-premises consumption, excepting only renewals of duly issued and existing licenses; and excepting also that a license may be issued to a qualified applicant who is the purchaser or assignee of such a duly licensed and existing establishment; provided, however, that new licenses may be issued for full-service restaurants having only a service bar not to exceed ten (10) feet in length, to deliver drinks to employees only for service to diners at tables without any seats or stools at such bar.

(5) No premises may be used or occupied and no structure may be erected or maintained for the harboring of pigeons, poultry, fowl, ducks, geese, swine, goats, sheep, lambs, horses, ponies, donkeys, snakes, cattle,

monkeys, rabbits, chinchillas, minks, skunks or foxes.

No premises may be used or occupied and no structure may be erected or maintained for the harboring of any dangerous or obnoxious animal which is wild in its natural habitat.

No more than a total of ten (10) dogs and/or cats may be kept or harbored in any dwelling unit, including the entire outdoor area appurtenant thereto, in any district at any time.

(6) No accessory building shall be used for any residential purpose.

(7) Except as otherwise provided in this Code [i.e., the Code of Ordinances], or when permitted by the board of zoning appeals pursuant to chapter 20, article II hereof [section 20-11 et seq.], fences on front yards shall not exceed four (4) feet in height; fences on side yards shall not exceed six (6) feet in height; and fences on rear yards shall not exceed eight (8) feet in height.

(8) Except as otherwise provided in this code or when permitted by the zoning board of appeals pursuant to Chapter 20, Article II hereof, fences on the front and side yards of a corner lot shall not exceed two and one-half (2 1/2) feet in height for a distance of twenty (20) feet from the point of the curb where street lines intersect, nor shall they be placed or maintained in such a place, position or manner as to obscure the vision of a driver of a vehicle approaching the street intersection.

(Ord. No. 1679/88, § 1, 9-6-88; Ord. No. 1708/89, § 1, 10-17-89; Ord. No. 1795/92, § 2, 12-1-92; Ord. No. 1825/94, § 2, 11-1-94)

Sec. 9-106.2. Mixed uses prohibited.

Anything contained in this Code to the contrary notwithstanding, no building or premises shall be used for both residential and business or commercial purposes except in the Residence-Business A District; and no building or structure shall hereafter be altered or hereafter erected which is designed or intended to be used for both residential and business or commercial purposes except in the Residence-Business A District.

Sec. 9-106.3. Continuing nonconforming mixed uses.

Continuing existing mixed uses:

(a) (1) Except as provided in this subsection, any nonconforming mixed use may continue, provided, however, that any mixed use premises not more than three (3) stories in height and designed primarily for commercial use, located on the northerly side of Park Street between the easterly side of Park Place and the westerly side of Long Beach Boulevard, and on the southerly side of Park Street between the easterly side of Edwards Boulevard and the westerly side of Long Beach Boulevard, within the limits of the City of Long Beach, shall be changed to a conforming nonmixed use within five (5) years from the effective date of the adoption of this section.

(2) Further provided, however, that any mixed use premises not more than

three (3) stories in height and not designed primarily for commercial use, located on the northerly side of Park Street between the easterly side of Park Place and the westerly side of Long Beach Boulevard, and on the southerly side of Park Street between the easterly side of Edwards Boulevard and the westerly side of Long Beach Boulevard, within the limits of the City of Long Beach, shall be changed to a conforming nonmixed use within five (5) years from the effective date, December 6, 1977, of the adoption of this provision.

(b) Except as provided in section 9-106.3(a) and in this subsection, any nonconforming mixed use may continue. Provided, however, that any mixed use premises not more than three (3) stories in height, located on the northerly side of Park Avenue between the westerly side of Park Place and the easterly side of Lafayette Boulevard and on the southerly side of Park Avenue between the westerly side of Edwards Boulevard and the easterly side of Lafayette Boulevard, within the limits of the City of Long Beach, shall be changed to a conforming non-mixed use within five (5) years from the effective date of the adoption of this subsection (September 21, 1976).

(c) Except as provided in section 9-106.3(a), section 9-106.3(b), and in this subsection, any nonconforming mixed use may continue, provided, however, that any and all remaining legal nonconforming mixed use premises not more than three (3) stories in height, located anywhere east of Grand Boulevard within the limits of the City of Long Beach shall be changed to a conforming non-mixed use within five (5) years from the effective date of the adoption of this subsection.

Sec. 9-106.4. Abandonment of nonconforming uses.

(a) A nonconforming use both as to use and as to building and area requirements shall be deemed to have been abandoned:

(1) When it is changed to a conforming use.

(2) When the nonconforming use has been discontinued for any reason or cause for a period of ten (10) consecutive months.

(b) A nonconforming use that has been abandoned shall not thereafter be reinstated.

Sec. 9-106.5. Adult uses.

(a) *Legislative intent.* In the execution of this section it is recognized that there are some uses which, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.

It is further declared that the location of these uses in regard to areas where our youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the city.

These special regulations are itemized in this section to accomplish the primary purposes of preventing a concentration of these uses in any one area and restricting

their accessibility to minors.

(b) *Definitions.*

Adult bookstore: An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides and videotapes and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

Adult entertainment cabaret: A public or private establishment which presents topless dancers, lap dancers, strippers, male or female impersonators and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

Adult motel: A motel which is not open to the public generally but excludes minors by reason of age or which makes available to its patrons in their rooms films, slide shows or videotapes which, if presented in a public movie theater, would not be open to the public generally but would exclude any minor by reason of age.

Adult theater: A theater that customarily presents motion pictures, films, videotapes or slide shows that are not open to the public generally but exclude any minor by reason of age.

Massage establishment: Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or barbershops or beauty salons or day spas in which massages are administered. This definition also shall exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

Peep shows: A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.

(c) *Restrictions.* Notwithstanding any provision of this article to the contrary, the adult uses defined above shall be restricted as to location in the following manner in addition to any other requirements of the building zone ordinance or City Code of Ordinances:

(1) Any of the above uses shall not be located within a five hundred-foot radius of any residence district.

(2) Any of the above uses shall not be located within a five hundred-foot radius of another such use.

(3) Any of the above uses shall not be located with a five hundred-foot radius of any school, church or other place of religious worship, park, playground or playing field.

(4) Not more than one (1) of the above uses shall be located on any lot.

(Ord. No. 1934/00, § 1, 7-18-00)

Sec. 9-106.5. Adult uses.

Sec. 9-107. Existing nonconforming buildings.

(a) The limitations, prohibitions and requirements contained in this Appendix A of the Code of Ordinances entitled "Zoning" shall not apply to any legally existing nonconforming one-or-two-family building or structure nor to the continuance of the same legally existing use of any one-or-two-family building or structure, but shall apply to any legally existing nonconforming multiple dwelling, commercial and/or industrial building or structure which may be, shall be proposed to be altered, added to, enlarged or rehabilitated. However, nothing in this section shall be construed to enlarge, expand or alter any nonconforming rights.

(b) No building in which a nonconforming use is superseded by a use permitted in the district in which it is located shall again be changed to a use prohibited in that district.

(c) Any nonconforming building or structure which shall be damaged by fire or act of God to an extent not exceeding one-half of its market value at the time of such fire or act of God, or one-half of its cubical contents, may be repaired within six (6) months, subject to the provisions of the building code, and used as before.

(Ord. No. 1685/89, § 1, 1-3-89; Ord. No. 1765/91, § 1, 11-6-91)

Sec. 9-108. Nonconforming uses and buildings in A, B, C, D, DD, E, EE, F, and G Districts.

Continuing existing uses: Except as provided in this section, any nonconforming use of any building, structure, land or premises may be continued, provided, however, that any premises situated in any Residence A, B, C, D, DD, E, EE, F, or G District and which falls into the category of rooming house or lodging house, shall be changed to a conforming use after November 3, 1971, the effective date of the adoption of this section within the time limits specified herein:

(1) A rooming or lodging house with a maximum of five units _____ three years.

(2) A rooming or lodging house with a maximum of ten units _____ five years.

(3) A rooming or lodging house with more than ten units _____ seven years.

Sec. 9-109. Use permit.

It shall be unlawful for the owner to use or permit the use of any building or premises or part thereof hereafter altered or erected, or to use or permit the use of any building or premises or part thereof hereafter changed to a different use, until a use permit shall have been issued to the owner by the commissioner of buildings. Such permit shall show that such buildings or premises or part thereof and the proposed use thereof are in conformity with the provisions of this article [ordinance].

Sec. 9-109.1. Breach or violation of conditional variance or permit.

It shall be unlawful for the owner or any other party to use, or permit, or suffer the

use, of any building or premises, or any part thereof, which has been changed to a different use by a variance or permit issued by the zoning board of appeals in which any condition imposed by said board in connection with the issuance of said variance or permit has been breached or violated.

Sec. 9-110. Application and permits.

(a) The application for a permit shall be sworn to by the applicant, shall be made as now or hereafter provided in the building code and shall designate the existing or intended use of the building which it is proposed to alter or erect, and the number of dwelling units, if any. It shall be accompanied by two (2) copies of ink or blueprint plans of the building and lot drawn to scale, together with specifications of the building. The lot plans shall show the actual lines and dimensions of the lot to be built upon, and the exact size and location on the lot of all existing and proposed buildings. The application shall contain such other information with regard to the lot and adjoining property as may be required by the commissioner.

All such lot plans shall be made and signed by a responsible and recognized draftsman or surveyor.

One copy of both plans and specifications shall be retained in the office of the commissioner and the other shall be delivered to the applicant when the commissioner has approved the application and issued the permit.

(b) No permit shall be issued unless the plans and designated use indicate that the building and premises will conform with the provisions of this article [ordinance].

(c) It shall be the duty of the commissioner of buildings to enforce the provisions of this article but this provision shall not limit the power of all law enforcement officers to enforce the provisions hereof. Any permit required hereunder shall be issued by the commissioner in the first instance or by direction of the board of appeals as hereinafter provided.

(d) It shall be unlawful to use or permit the use of any building or structure, or part thereof, hereafter altered or erected, until the commissioner shall have certified on the building permit or in a separate use permit conformity with the provisions of this article [ordinance].

(e) It shall be unlawful to use or permit the use of any building or premises, or part thereof, hereafter changed to a different use, until a use permit shall have been issued by the commissioner showing conformity with the provisions of this article [ordinance].

(f) The building commissioner shall revoke any permit heretofore or hereafter issued where the building, structure or premises covered by such permit is used or permitted to be used, or designed or intended to be used in violation of the provisions of this article, except where such nonconforming use is permitted by direction of the board of appeals as herein provided. Such revocation shall become effective when a written notification to such effect, signed by the building commissioner is mailed to the owner or occupant of the premises in question.

Sec. 9-111. Satellite-dish television antennas.

(a) As used in this section, a satellite-dish television antenna shall mean an

electromagnetic device with a dish diameter in excess of twenty-four (24) inches which can convert an electromagnetic wave transmitted from a satellite into either visual or audible signals, or both, for television viewing.

(b) As used in this section, a satellite shall mean a communication apparatus in earth orbit which receives and transmits video and audio signals.

(c) In considering an application for a permit to install, use and/or maintain a satellite-dish television antenna as a special exception, the zoning board of appeals shall give due consideration to all of the following factors:

(1) Whether the granting of said permit would result in a reasonable possibility of creating a hazard to life, limb, health, safety or property, due to adverse weather conditions, structural impairment or defect, or collapse for any other cause.

(2) Whether the granting of said permit would result in the installation, use and/or maintenance of an aesthetically undesirable, grotesque or grossly objectionable or unreasonable affront to other persons in the area.

(3) Whether the granting of said permit would deny solar access to a neighbor.

(4) Whether the imposition of restrictions, limitations, reservations and conditions would inflict unreasonable limitations on, or prevent, the reception of satellite-delivered signals by receive-only antennas, or would impose excessive costs in relation to the purchase and installation costs of the equipment.

(Ord. No. 1829/95, § 1, 2-7-95)

Sec. 9-112. Minimum off-street parking space requirements for passenger motor vehicles in all districts.

Off-street parking space shall be provided in connection with the erection, construction, alteration, change of use, additional use, or additional business enterprise, of or within any building or structure, in the following amounts:

(1) For one-family and two-family dwellings, one parking space per family dwelling unit.

(2) For nonprofit residence for the elderly, designated and located in the City of Long Beach as follows:

1. Project No. NY-50-3. Northeast of Magnolia Boulevard and Broadway.

   Section 59, Block 75, Lots 6, 7, 8, 9, and 10.

2. Project No. NY-50-4. 415 National Boulevard.

   Section 59, Block 70, Lots 31, 32, 33, 34 and 35.

3. Project No. NY-50-5. 200 feet east of Edwards Boulevard on the north side Broadway.

   Section 59, Block 101, Lots 51, 52, 53, 54 and 55.

Sec. 9-112. Minimum off-street parking space requirements for passenger motor vehicles in all districts.

4. Project No. NY-50-6. 225 West Park Avenue on the northwest corner of West Park Avenue and Magnolia Boulevard.

Section 59, Block 58, Lots 57 to 70 inclusive.

parking spaces equal in number to not less than twenty-five (25) per cent of the number of family dwelling units in each elderly residence structure.

A nonprofit residence for the elderly is defined as a residence to be occupied at least ninety (90) per cent by elderly families or elderly persons, as defined in Section 202 of the Federal Housing Act of 1959, as amended, which residence is constructed with the assistance of mortgage financing insured by or procured through or with the assistance of a municipal, state or federal governmental agency, and is constructed and maintained by the Housing Authority of the City of Long Beach.

(2A) For all multiple dwellings, a ratio of one and one-quarter (1.25) parking spaces for each studio dwelling area; one and one-half (1.5) parking spaces for each one-bedroom dwelling unit; and two (2) parking spaces for each dwelling unit of two (2) bedrooms and more. In no case shall the total off-street parking spaces provided comprise less than one and three-quarters (1.75) parking spaces for each dwelling unit. In the case of a multiple dwelling containing more than ten (10) units, twenty-five (25) per cent of the required off-street parking facilities may be provided off-site, but in no event may such off-site parking facilities be located more than five hundred (500) feet from the parking generator.

(3) For hotels, one parking space for each two (2) sleeping rooms and suites, plus one additional space for each four (4) employees, plus such additional space as shall be deemed necessary by the building commissioner because of any supplementary, parking-generating activities of some hotels, such as bars, ballrooms, nightclub facilities and the like.

(4) For private clubs or lodges, parking spaces equal in number to not less than twenty (20) per cent of the active membership thereof, plus one additional space for each four (4) employees of the club or lodge.

(5) For sanitariums, nursing or convalescent homes, and other health-related facilities, one parking space for each six (6) patient beds, plus one additional space for each three (3) staff or visiting doctors, plus one additional space for each four (4) employees including nurses.

(6) Reserved.

(7) For community centers, libraries, museums, post offices, civic clubs and similar uses, parking spaces equal in number to at least forty (40) per cent of the number of employees thereof, plus such additional space for members and business or social visitors as shall be deemed necessary by the building commissioner.

(8) For dance halls, one space for each thirty-six (36) square feet of dance floor area, plus additional spaces equal in number to at least forty (40) per cent of the number of employees.

Sec. 9-112. Minimum off-street parking space requirements for passenger motor vehicles in all districts.

(9) For bowling alleys, four (4) parking spaces for each alley, plus additional spaces equal in number to at least forty (40) per cent of the number of employees.

(10) For convention halls, gymnasiums, parks, skating rinks and similar uses, parking spaces equal in number to at least forty (40) per cent of the number of employees, plus such additional space for social and business visitors as shall be determined by the building commissioner.

(11) For theaters, one parking space for each four (4) seats, plus additional spaces equal in number to at least forty (40) per cent of the number of employees thereof.

(12) For auditoriums, stadiums, sports arenas, or similar uses, one parking space for each four (4) seats, plus additional spaces equal in number to at least forty (40) per cent of the number of employees thereof. Where individual seats are not provided, each twenty (20) inches of benches or other similar seating shall be considered as one seat for the purposes of determining requirements hereunder.

(13) For churches, one parking space for each four (4) seats, plus one additional space for each church official resident of the premises, plus additional spaces equal in number to at least forty (40) per cent of the number of permanent employees thereof. Where individual seats are not provided, each twenty (20) inches of benches or other similar seating shall be considered as one seat for the purposes of determining requirements hereunder.

(14) For schools, one parking space for each two (2) employees including teachers and administrators, plus sufficient off-street space for the safe and convenient loading and unloading of students, plus such additional facilities for student parking as the building commissioner shall deem necessary.

(15) For office or public buildings, one parking space for each separate office or suite of offices of a given tenancy, plus one additional space for each four (4) employees including all occupants, plus such additional space as the building commissioner shall deem necessary.

(16) For restaurants, nightclubs, tearooms, lunch counters or the like, one parking space for each four (4) seats, plus such additional space for employee parking as the building commissioner shall deem necessary.

(17) For roadside stands, filling stations, repair shops, or other roadside service establishments, one parking space for each two (2) employees, plus such additional spaces for customer-motorists as the building commissioner shall deem necessary, in order to provide a maximum of safety and a minimum of congestion on the adjacent roadways.

(18) For general business, commercial and personal service establishments, the following:

a. Buildings or premises having a frontage of less than sixty-five (65) feet: One space for each thousand (1,000) square feet of floor space contained within said buildings or premises, plus such

additional spaces as the building commissioner shall deem necessary by reason of all the parking-generating factors involved.

b. Buildings or premises having a frontage of sixty-five (65) feet or more: One space for each five hundred (500) square feet of floor space contained within said buildings or premises, plus such additional spaces as the building commissioner shall deem necessary by reason of all parking-generating factors involved.

c. Upon a showing by the owner of any building or premises having a frontage of twenty (20) feet or less that the provisions of this subdivision cannot reasonably be complied with because of location or unusual shape, physical condition or use, or where the requirements of this section would lead to practical difficulty or unnecessary hardship, the city council may, upon due application and public hearing, exempt such buildings or premises from the provisions of this section.

(19) For industrial or manufacturing establishments, one parking space for each four (4) employees (based upon the maximum number employed at one time), plus such additional parking space as shall be required for all vehicles used directly or indirectly in the conduct of the enterprise.

(20) For any and all uses or structures not specifically provided for in the foregoing enumeration, such parking space as the building commissioner shall determine to be necessary considering all the parking-generating factors involved.

(21) For medical suites and related medical facilities, one parking space for each doctor, plus one parking space for each employee, plus two (2) parking spaces for each treatment room.

(22) For fast food restaurants, one parking space for each two (2) seats or persons, who can be legally accommodated, plus such additional space for employee parking as the building commissioner shall deem necessary.

(Ord. No. 1709/89, § 1, 10-17-89; Ord. No. 1902/98, § 1, 9-1-98)

Sec. 9-112.1. Change in requirements.

Whenever there is a change in the number of employees, business visitors or in any other unit of measurement specified in the foregoing section 9-112, and whenever such change creates a need for an increase of more than fifteen (15) per cent of the number of off-street automobile parking spaces as determined by the requirements of said section 9-112, additional off-street parking facilities shall be provided in an amount as required by said section 9-112. In the case of unusual hardship arising out of the requirements of this section, recourse may be had in the manner provided by subsection 9-112(18)c, or to the zoning board of appeals, as may be applicable.

Sec. 9-112.2. Application fee for the filing of a waiver of off-street parking space requirements.

The application fee for the filing of a waiver of off-street parking space requirements pursuant to section 9-112 of this appendix, shall be fifty dollars ($50.00).

(Ord. No. 1858/96, § 1, 7-16-96)

Sec. 9-113. Mixed uses.

In the case of mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this article. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use. Notwithstanding the above, for mixed use developments specifically approved by the city council in the Residential Business A District, the total number of required parking spaces shall be determined as part of the city council approval, with said total recognizing that parking for one use may be considered as providing parking for another use in a major mixed use development.

(Ord. No. 1957/02, § 1, 6-18-02)

Sec. 9-113.1. Location of facilities.

Off-street parking facilities to the extent required in this article shall be provided on the same lot or premises with the parking-generator except that in the event the parking-generator shall be located in a zone designated on the zoning map as Industrial, Business or Multiple Dwelling Residence District, then and in that event, no more than twenty-five (25) per cent of the required parking facilities may be provided on any lot or premises which shall be not more than five hundred (500) feet distant, measured on a straight line from any part of the premises upon which the parking-generator is situated, and which shall lie within a zone designated Industrial, Business or Multiple Dwelling Residence District upon the Zoning Map of the City of Long Beach.

Sec. 9-113.2. Off-street parking design standards.

(a) All off-street parking facilities shall be designed with appropriate means of vehicular access to a street. No driveway or curb cuts shall exceed twenty-five (25) feet in width, and detailed plans shall be submitted to the building commissioner for approval of all curb cuts and driveway openings before the building permit may be obtained.

(b) No vehicular entrance to or exit from any required parking space shall be located less than twenty-five (25) feet from the point of intersection of the curbs.

(c) All off-street parking areas shall be paved with an asphaltic or concrete surfacing, afford adequate drainage, and shall have bumper guards where needed in the discretion of the building commissioner.

(d) All off-street parking areas shall be used only for the parking of passenger automobiles of owner, employees, customers or guests of the person or firm owning, controlling or operating the area, who shall be responsible for its

maintenance. Off-street parking areas shall not be used for sales of any kind, dead storage, repair work, dismantling or servicing of any kind.

(e) No charge of any kind shall be made for the use of required parking facilities located in a Business A, Business B, Business C or Industrial zoned district.

(f) In the event that the off-street parking space is located in a nonresidential district and upon a plot or premises adjoining a residence district, the following regulations shall apply in addition to the foregoing:

(1) Vehicular entrances and exits shall not lead to a street in a residence district.

(2) Any signs erected upon the parking space shall not be visible to adjoining property in a residence district.

(3) The parking space shall be screened from adjoining property in a residence district by a hedge or sightly fence or wall four (4) feet in height, located inside of the rear lot line.

(4) All lighting on such parking areas shall be arranged and focused so that it shall reflect away from the adjoining residence district and the public street.

(g) In the event that the required off-street parking space shall be provided upon the same lot or plot upon which the parking-generator is located then and in that event the said required off-street parking area shall be located either on the side or rear of said parking-generator or within said parking-generator. In no event shall the off-street parking area be provided in front of any building or structure.

(h) Each off-street parking space (parking stall) shall have a minimum area of one hundred eighty (180) square feet with a minimum width of nine (9) feet and a minimum length of twenty (20) feet, and each such parking space or stall shall be so arranged that the vehicle parked therein may be driven directly to the public highway without moving any other vehicle parked in an adjacent parking space or stall. Compact parking spaces, where permitted, shall have a minimum area of one hundred thirty-six (136) square feet with a minimum width of not less than eight (8) feet and a minimum length of not less than seventeen (17) feet

(Ord. No. 1762/91, § 1, 6-18-91; Ord. No. 3066/22, § 1, 08-16-2022)

Sec. 9-113.3. Discontinuance of required minimum parking space.

Should the owner of any building or premises hereunder required to provide minimum off-street parking space for passenger motor vehicles, sell, lease or otherwise dispose of or discontinue the use of the minimum required parking space for passenger motor vehicles, then and in that event any and all permits, licenses and certificates, including the certificates of occupancy issued by any city department in connection with such building or premises shall be forthwith revoked. No new licenses, permits or certificates, including certificates of occupancy, shall be issued in connection with said building or premises until such time as the requirements of this article [ordinance] shall be complied with in all respects.

Sec. 9-113.4. Promulgation of rules concerning outdoor dining and open markets.

The building department commissioner shall promulgate rules concerning the placing of tables, chairs, benches and food stands outside of commercial establishments, a copy of which shall be on file in the building department. Application shall be made to the building department commissioner and appealed to the city manager.

(Ord. No. 1915/99, § 2, 6-1-99)

Sec. 9-114. Violations deemed a public nuisance.

Whenever any house, building, structure, excavation, business pursuit, matter or thing, in or about a dwelling, building or the lot on which it is situated, has been adjudged by a court of competent jurisdiction to be designed, occupied or intended to be occupied, used, altered or constructed in violation of this article [ordinance] or the owner, occupant, lessee or person in charge of such house, building or structure has been found guilty by a court of competent jurisdiction of a violation of this article [ordinance] or of any condition imposed by the board of appeals of the City of Long Beach, it shall be the duty of the commissioner of buildings to declare the same to be a public nuisance and to order the same to be removed, abated, suspended, altered or otherwise improved as the order shall specify, and the building department shall issue an order requiring all persons therein to vacate such house, building or structure or part thereof within not less than twenty-four (24) hours nor more than ten (10) days for the reasons to be mentioned in such order.

This order may be served personally upon all persons within the same premises or by mail. In case such order is not complied with within the time specified therein, the building commissioner shall cause the said house, building, premises or structure or part thereof to be vacated and the police department shall enforce such order.

After such determination or conviction, no such premises shall be occupied in whole or in part for human habitation until the issuance of a certificate by the building commissioner that the said building conforms in all respects to the provisions of this ordinance. Such certificate shall be issued within ten (10) days after written application therefor, if such building, by the date of such application shall be entitled thereto.

If any such building, structure or premises be occupied by human habitation in whole or in part without such certificate, the department of water supply of the City of Long Beach shall not permit water to be furnished in any such building or premises and said premises shall be deemed unfit for human habitation and the building commissioner shall cause them to be vacated in the manner set forth above.

Sec. 9-115. Amendments by council.

The council may from time to time amend, supplement, change, modify or repeal this article [ordinance] including the zoning map by proceeding in the following manner:

> The council by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as follows:

(a) By publishing a notice thereof once a week for three (3) successive weeks in a newspaper of general circulation in the city.

(b) The notices shall state the general nature of the proposed amendment.

Sec. 9-116. Penalties.

A violation of any of the provisions of this Appendix A (Zoning Law), unless otherwise specially provided herein, or a violation of any condition or conditions imposed by the zoning board of appeals, shall constitute and be deemed a violation, and shall be punishable by a fine not exceeding one thousand dollars ($1,000.00), or by imprisonment not exceeding fifteen (15) days, or both. Each day that any such violation shall continue or exist shall constitute a separate offense.

A use violation in any Residence District shall constitute and be deemed a violation and shall be punishable by a fine in an amount up to the equivalent of two (2) years rent, or by imprisonment not exceeding fifteen (15) days, or both.

(Ord. No. 2034/09, § 1, 1/20/2009)

CODE COMPARATIVE TABLE

This table gives the complete disposition of the section of the Code of 1957.

CODE COMPARATIVE TABLE-

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12-808	Rpld
12-809	Rpld
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On December 3, 1957, the City Council enacted Ordinance No. 602, adopting the Municipal Code of the City of Long Beach, which superseded, amended, revised and codified the ordinances of the city. In accordance with Ordinance No. 602-B, dated August 15, 1958, and Ordinance No. 602-C, dated September 29, 1958, the Municipal Code became effective on January 1, 1959.

The following table reflects all ordinances enacted subsequent to the adoption of the Municipal Code, other than those ordinances which pertain to bonds, tax anticipation notes and budget notes, and other similar fiscal matters, and special assessments and franchises.