

## Chapter 2: Real Property Assessment, Taxation and Charges

### Subchapter 1: Assessment on Real Property

#### § 11-201 Assessments on real property; general powers of finance department.

The commissioner of finance shall be charged generally with the duty and responsibility of assessing all real property subject to taxation within the city.

#### § 11-202 Maps and records; surveyor.

The commissioner of finance shall appoint a surveyor who shall make the necessary surveys and corrections of the block or ward maps, and also make all new tax maps which may be required.

#### § 11-203 Maps and records; tax maps.

a. As used in the charter and in the code, the term "tax maps" shall mean and include the block map of taxes and assessments to the extent that the territory within the city of New York is or shall be embraced in such map, such ward or land maps as embrace the remainder of such city, and also such maps as may be prepared under and pursuant to subdivision d of this section.

b. Each separately assessed parcel shall be indicated on the tax maps by a parcel number or by an identification number. A separate identification number shall be entered upon the tax maps in such manner as clearly to indicate each separately assessed parcel of real property not indicated by parcel numbering. Real property indicated by a single identification number shall be deemed to be a separately assessed parcel. In the case of a newly created parcel with any building thereon, no tax lot number or identification number shall be assigned to such parcel unless the commissioner of the department of buildings has certified that the newly created parcel complies with all applicable zoning laws.

c. Parcel numbers shall designate each parcel by the use of three or more numbers, of which one shall be a section or ward number, another a block, district or plat number, and another a lot number. The department of finance may from time to time change the form of the section and blocks, and also the numbers thereof, on the tax maps filed in its office whenever such change of form has been caused pursuant to section one hundred ninety-nine of the charter, and there shall thereafter be delineated and entered upon such maps such new additional sections and blocks and their numbers as necessity may require. Such administration may from time to time change the form of the lots or parcels comprised within any block, and also the numbers thereof, and cause to be shown on such maps the separate lots or parcels of land contained in any new block added thereto and also the lots numbers thereof, according to the general plan employed in the making of such maps.

d. Each separately assessed parcel indicated by an identification number shall be shown by a description, or by inscription of such number on the block map of taxes and assessments, or by other map and description. Such numbers may be altered in the same manner as provided in the preceding subdivision for the alteration of parcel numbers.

e. New tax maps shall be certified by the department of finance and filed in its main office, and substituted for use in its offices and in those of the department of environmental protection with respect to maps affecting the boroughs of Manhattan, Bronx, Brooklyn and Queens, instead of the maps theretofore in use therein. All changes and alterations made in the tax maps shall be transmitted within thirty days after such change or alteration to such offices.

f. On or before July first, nineteen hundred sixty-four, the department of finance:

(i) Shall certify and file a map showing the boundaries of each and every tax block and its tax block number in the boroughs of Manhattan, Bronx, Brooklyn and Queens, with the city register, and with the clerks of the counties of New York, Bronx, Kings and Queens,

(ii) Shall certify and file a copy of the tax maps for the year nineteen hundred sixty-four-nineteen hundred sixty-five for the boroughs of Manhattan, Bronx, Brooklyn and Queens with the city register, and

(iii) Shall, not later than July first, nineteen hundred sixty-seven, certify and file a copy of the tax maps for the year nineteen hundred sixty-seven-nineteen hundred sixty-eight for the boroughs of Manhattan, Bronx, Brooklyn and Queens respectively with the clerks of the counties of New York, Bronx, Kings and Queens. All changes and alterations made in the block boundary maps and in the tax maps shall be transmitted within thirty days after such change or alteration to such county clerks and city register.

#### § 11-204 Tax maps; block references; alterations and corrections.

a. On and after July first, nineteen hundred sixty-four, the use of the land maps in the offices of the city register and in the offices of the clerks of the counties of New York, Bronx, Kings and Queens, shall be discontinued, and on and after July first, nineteen hundred sixty-four, reference shall be had to the tax maps for the boroughs of Manhattan, Bronx, Brooklyn and Queens and to block numbers designated thereon for the purpose of indexing, recording or filing of instruments affecting title or relating to real property in such counties and the tax maps for said boroughs shall be conclusive as to the location of block boundaries and block numbers. The tax map for each borough may be referred to as the land map for the particular county which it affects.

b. Whenever any block boundaries shall be changed or any new or additional blocks of land shall be formed in such counties by the opening or closing of any street, avenue, road, boulevard or parkway or otherwise, the department of finance shall cause such maps to be altered to show the changes in the boundaries of a block and the formation of such new or additional blocks, and to cause such blocks, the boundaries of which have been altered, and such new or additional blocks, to be numbered on such maps with such block numbers as such department may determine. The commissioner of finance, or an officer or employee of the department designated by the commissioner, shall certify and file annually with the register and county clerk in each of such counties a list of the numbers of the blocks, the boundaries of which have been altered, and a list of the numbers of new or additional blocks which have been formed.

c. For the purpose of notice under any of the provisions of law for the recording of instruments affecting or relating to land in such counties, each block shall be deemed to extend to the middle lines of the streets, avenue, roads and boulevards laid out on such land maps fronting and adjoining such block, and shall also be deemed to extend to the exterior bulkhead line or to the exterior line of grants of land under water where water forms one of the boundaries of a block.

d. The word "block", as used in this section designates a plot or parcel of land such as is commonly so designated in the city, wholly embraced within the continuous lines of streets, or streets and waterfront taken together where water forms one of the boundaries of a block, and such other parcels of land or land under water as may be indicated by the department of finance upon such tax maps by block numbers as constituting blocks.

#### § 11-205 Maps and records; public inspection; evidential value.

a. The books, maps, assessment-rolls, files and records of the department of finance shall be kept in such of the offices of the department of finance as may be most convenient to the taxpayers of the city and suitable to the proper discharge of the business of the department of finance. They shall be public records and shall at all reasonable times be open to public inspection.

b. Copies of all such records and transcripts thereof, certified by the commissioner of finance or an assessor or by an officer or employee of the department of finance designated by the commissioner of finance, and under the seal of the department of finance, shall be admissible in evidence in all

courts and places in the same manner and for the same purposes as books, papers or documents similarly authenticated by the clerk of a county.

### **§ 11-206 Power of the commissioner of finance to correct errors.**

The commissioner of finance may correct any assessment or tax which is erroneous due to a clerical error or to an error of description contained in the several books of annual record of assessed valuations, or in the assessments-rolls. If the taxes computed on such erroneous assessment have been paid, the commissioner of finance is authorized to refund or credit the difference between the taxes computed on the erroneous and corrected assessments.

### **§ 11-207 Duties of assessors in assessing property.**

a. In performing their assessment duties, the assessors shall personally examine each parcel of taxable real estate during at least every third assessment cycle, and shall personally examine each parcel of real estate that is not taxable during at least every fifth assessment cycle, as measured from the last preceding assessment cycle during which such parcel was personally examined. Notwithstanding anything in the preceding sentence to the contrary, the assessors shall revalue, reassess or update the assessment of each parcel of taxable or nontaxable real estate during each assessment cycle, irrespective of whether such parcel was personally examined during each assessment cycle.

b. The persons having charge of the borough assessment offices shall furnish to the commissioner of finance, under oath, a detailed statement of all taxable real estate in the city. Such statement shall contain the street, the section or ward, the block and lot and map or identification numbers of such real estate embraced within such district; the sum for which, in their judgment, each separately assessed parcel of real estate would sell under ordinary circumstances if it were wholly unimproved and, separately stated, the sum for which the same parcel would sell under ordinary circumstances with the improvements, if any, thereon, such sums to be determined with regard to the limitations contained in the state real property tax law. Such statement shall include such other information as the commissioner of finance may, from time to time, require.

#### **§ 11-207.1 Information related to estimate of assessed valuation and notice of property value.**

a. Not later than the fifteenth day of February, the commissioner of finance shall submit the following information relating to the estimate of the assessed valuation of real property for the ensuing fiscal year to the mayor and to the council, and publish such information on the website of the department:

- (1) a distribution by relevant geographies and buildings types of the factors used in determining market values such as incomes, expenses, and rates of capitalization. The distribution should provide, at a minimum, the first, second and third quartiles of such factors;
- (2) specific formulas, data sources, and values used to determine the rates of capitalization for real property valuation;
- (3) average values and changes of incomes and expenses, as reflected on the statements required to be filed pursuant to section 11-208.1 of this code;
- (4) a statistical summary of the changes in the total market value and assessed value for each property tax class and property category from the assessment roll of the previous year;
- (5) a statistical summary of equalization and non-equalization changes from the assessment roll of the previous year; and
- (6) the method of valuation used for each property listed on the estimate of the assessed valuation of real property subject to taxation for the ensuing fiscal year, and the information used to determine such valuation.

b. The notice of property value sent by the department to an owner of real property shall inform such owner how to access additional information on the website of the department regarding valuation of the subject real property, including the factors used by the department to determine the market value of such real property. The notice of property value shall include the address of such website. Such information shall be made available at least thirty days prior to the final date for filing any appeal.

### **§ 11-208 Special right of entry; certificate of the commissioner of finance.**

A right of entry upon real property and into buildings and structures at all reasonable times to ascertain the character of the property shall not be allowed to any person acting in behalf of the department of finance, other than the officials mentioned in sections one hundred fifty-six and one thousand five hundred twenty-one of the charter, unless a certificate therefor, executed in writing and signed by the commissioner of finance, is presented by such person to the owner, lessee, or occupant of the premises or his or her agent before entry thereon is made.

#### **§ 11-208.1 Income and expense statements.**

a. Where real property is income-producing property, the owner shall be required to submit annually to the department not later than the first day of June, a statement of all income derived from and all expenses attributable to the operation of such property as follows:

- (1) Where the owner's books and records reflecting the operation of the property are maintained on a calendar year basis, the statement shall be for the calendar year preceding the date the statement shall be filed.
- (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 May preceding the date the statement shall be filed.
- (3) Notwithstanding the provisions of paragraphs one and two of this subdivision, where the owner of the property has not operated the property and is without knowledge of the income and expenses of the operation of the property for the entire year for which the income and expense statement is required pursuant to the provisions of paragraph one or paragraph two of this subdivision, then an income and expense statement shall not be required for such year. Such owner is, however, subject to the requirements of paragraph four of subdivision d of this section.
- (4) The commissioner may for good cause shown extend the time for filing an income and expense statement by a period not to exceed thirty days, or in the case of residential class two properties held in the cooperative or condominium form of ownership, by a period not to exceed sixty days. The filing of the income and expense statement within the time prescribed by this paragraph shall be considered timely filed.

b. Such statements shall contain the following declaration: "I certify that all 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."

c. The form on which such statement shall be submitted shall be prepared by the commissioner and copies of such form shall be made available at the offices of the department in the county in which the property is located. The commissioner may, by rule, require such statement to be submitted electronically in such form and such manner as the commissioner may determine. For good cause, the commissioner may waive any rule requiring electronic filing and may permit a statement to be filed in such other manner as the commissioner may designate.

d. (1) In the event that an owner of income-producing property fails to file an income and expense statement within the time prescribed in subdivision a of this section (determined with regard to any extension of time for filing), such owner shall be subject to a penalty in an amount not to exceed three percent of the assessed value of such income-producing property determined for the current fiscal year in accordance with section fifteen hundred six of the charter provided, however, that if such statement is not filed by the thirty-first day of December, the penalty shall be in an amount not to exceed four percent of such assessed value. If, in the year immediately following the year in which an owner fails to file by the thirty-first of December, the owner

again fails to file an income and expense statement within the time prescribed in subdivision a of this section (determined with regard to any extension of time for filing), such owner shall be subject to a penalty in an amount not to exceed five percent of the assessed value of such property determined for the current fiscal year. Such owner shall also be subject to a penalty of up to five percent of such assessed value in any year immediately succeeding a year in which a penalty of up to five percent could have been imposed, if in such succeeding year the owner fails to file an income and expense statement within the time prescribed in subdivision a of this section (determined with regard to any extension of time for filing). The penalties prescribed in this paragraph shall be imposed by the commissioner after notice and an opportunity to be heard, and an opportunity to cure the failure to file. The penalties prescribed in this paragraph shall be a lien on such income-producing property when entered by the commissioner in the records in which charges against the property are to be entered, and shall continue to be, until paid, a lien on such property. Such lien shall be a tax lien within the meaning of sections 11-319 and 11-401 of this code and may be collected, sold, enforced or foreclosed in the manner provided in chapters two, three and four of title eleven of this code or may be satisfied in accordance with the provisions of section thirteen hundred fifty-four of the real property actions and proceedings law. If any such penalties are not paid within thirty days from the date of entry, it shall be the duty of the commissioner to receive interest thereon at the rate of interest applicable to such property for a delinquent tax on real property, to be calculated to the date of payment from the date of entry. The penalties prescribed in this paragraph may also be collected in an action brought against the owner of the income-producing property in a court of competent jurisdiction. The institution of any such action shall not suspend or bar the right to pursue any other remedy provided by law for the recovery of such penalties.

(2) The tax commission shall deny a hearing on any objection to the assessment of property for which an income and expense statement is required and has not been timely filed.

(3) Where an income and expense statement required under the provisions of this section has not been timely filed, the commissioner may compel by subpoena the production of the books and records of the owner relevant to the income and expenses 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.

(4) An owner of real property who is not required to submit an income and expense statement pursuant to paragraph three of subdivision a of this section or the rules promulgated by the commissioner of finance pursuant to subdivision g of this section shall submit to the department, annually on or before the first day of June, or on such other schedule as determined by rule of the commissioner, a claim of exclusion from the filing requirement in a form approved by the commissioner. The commissioner may for good cause shown extend the time for submitting a claim of exclusion by a period not to exceed thirty days, or in the case of residential class two properties held in the cooperative or condominium form of ownership, by a period not to exceed sixty days. The filing of the claim of exclusion within the time prescribed by this paragraph shall be considered timely filed. In the event that an owner who is required to submit a claim of exclusion fails to submit such claim within the time prescribed by this paragraph or by the rules of the commissioner, such owner shall be subject to a penalty. Such penalty shall be imposed by the commissioner after notice and an opportunity to be heard, and an opportunity to cure the failure to submit a claim of exclusion, and shall be collected and enforced, including the imposition of interest for late payment, in the same manner as the penalties for failure to file an income and expense statement as provided in paragraph one of this subdivision. Such penalty shall not exceed the following amounts:

- (i) one hundred dollars for failure to submit a claim of exclusion in one year;
- (ii) five hundred dollars for failure to submit a claim of exclusion in two consecutive years;
- (iii) one thousand dollars for failure to submit a claim of exclusion in three consecutive years or more.

(5) Notwithstanding paragraph four of this subdivision, an owner of real property described in the categories below is not required to submit a claim of exclusion:

- (i) property that has an assessed valuation of forty thousand dollars or less;
- (ii) residential property containing ten or fewer dwelling units;
- (iii) property classified in class one or two as defined in article eighteen of the real property tax law containing six or fewer dwelling units and one retail store; or
- (iv) special franchise property that is assessed pursuant to article six of the real property tax law.

(6) The department shall inform owners of income producing property, other than owners of the property described in paragraph five of this subdivision, of the requirement to file an income and expense statement, or, if applicable, a claim of exclusion, on the property tax bill for payment of the installment of real property tax that is due and payable on the first day of January and on the notice of property value. Such notification shall also inform the owner of such property that a penalty and interest may be imposed on such owner for failure to submit such claim, and that any penalties or interest imposed on such owner shall constitute a lien on such property.

(7) No later than thirty days prior to the imposition of a penalty prescribed in paragraphs one and four of this subdivision, the commissioner shall publish on the website of the department a list of all property for which an income and expense statement, or, if applicable, a claim of exclusion, required to be filed pursuant to the provisions of this section was not timely filed. Such list shall contain the borough, block, lot, address, zip code, and tax class of the property. No later than the first day of February of each calendar year, the commissioner shall publish on the website of the department a list of all property for which an income and expense statement or, if applicable, a claim of exclusion, required to be filed pursuant to the provisions of this section was not timely filed. Such list shall contain the borough, block, lot, address, zip code, and tax class of the property, the penalty amount imposed by the department for failure to comply with the provisions of this section, and, to the extent practicable, the number of consecutive years the property owner has failed to file an income and expense statement, or, if applicable, a claim of exclusion.

(8) In cases where the closing or finalizing of the sale of real property precedes the publication of the lists described in paragraph seven of this subdivision or the first property tax bill to reflect a penalty imposed on such property for the failure to file an income and expense statement or, if applicable, a claim of exclusion, required to be filed pursuant to this section, the commissioner may waive such penalty and cancel any lien imposed as a result of such penalty, as may be described in guidelines prescribed by the commissioner, upon request of the owner of such property.

e. As used in this section, the term "income-producing property" means property owned for the purpose of securing an income from the property itself, but shall not include property with an assessed value of forty thousand dollars or less, or residential property containing ten or fewer dwelling units or property classified in class one or two as defined in article eighteen of the real property tax law containing six or fewer dwelling units and one retail store.

f. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the department, the president or a commissioner or employee of the tax commission, any person engaged or retained by the department or the tax commission 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, an abstract or a portion of any such statement is furnished, to divulge or make known in any manner except as provided in this subdivision, the amount of income and/or expense or any particulars set forth or disclosed in any such statement required under this section. The commissioner, the president of the tax commission, or any commissioner or officer or employee of the department or the tax commission charged with the custody of such statements shall not be required to produce any income and expense statement or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the department or the tax commission. 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 statistics so classified as to prevent the identification of particular statements and the items thereof, or making known aggregate income and expense information disclosed with respect to property classified as class four as defined in article eighteen of the real property tax law without identifying information about individual leases, or making known a range as determined by the commissioner within which the income and expenses of a property classified as class two falls, or the inspection by the legal representatives of the department or of the tax commission of the statement of any owner who

shall bring an action to correct the assessment. Any violation of the provisions of this subdivision shall be punished 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 department or the tax commission, the offender shall be dismissed from office.

g. The commissioner shall be authorized to promulgate rules and regulations necessary to effectuate the purposes of this section.

h. Subdivision f of this section shall be deemed a state statute for purposes of paragraph (a) of subdivision two of section eighty-seven of the public officers law.

i. The owner of a ground floor or second floor commercial premises, including of a designated class one property, as such terms are defined in subdivision a of section 11-3001, shall be required to file registration statements and supplemental registrations pursuant to subdivisions b, c and d of such section, with the income and expense statement required to be submitted pursuant to this section.

(Am. L.L. 2019/157, 8/23/2019, eff. 11/21/2019; Am. L.L. 2021/080, 7/18/2021, eff. 7/18/2021)

**Editor's note:** For related unconsolidated provisions, see Appendix A at L.L. 2021/080.

### **§ 11-209 Taxable status of building in course of construction.**

a. A building, other than a commercial building, in the course of construction, commenced since the preceding fifth day of January and not ready for occupancy on the fifth day of January following, shall not be assessed unless it shall be ready for occupancy or a part thereof shall be occupied prior to the fifteenth day of April.

b. (1) A commercial building in the course of construction, commenced since the fifth day of January one year preceding the taxable status date and not ready for occupancy or partially occupied on the taxable status date, shall not be assessed unless it shall be ready for occupancy or a part thereof shall be occupied prior to the fifteenth day of April following the taxable status date.

(2) A commercial building in the course of construction, commenced since the fifth day of January two years preceding the taxable status date and not ready for occupancy or partially occupied on the taxable status date, shall not be assessed unless it shall be ready for occupancy or a part thereof shall be occupied prior to the fifteenth day of April following the taxable status date.

(3) A commercial building in the course of construction, commenced since the fifth day of January three years preceding the taxable status date and not ready for occupancy or partially occupied on the taxable status date, shall not be assessed unless it shall be ready for occupancy or a part thereof shall be occupied prior to the fifteenth day of April following the taxable status date.

c. For purposes of this section, a "commercial building" shall mean a building that is intended to be used, and upon completion is used, exclusively for buying, selling or otherwise providing goods or services, or for other lawful business, commercial or manufacturing activities, excluding hotel services, except that a commercial building may contain a residential component other than a hotel, provided (i) that such residential component is receiving or has applied for and is eligible to receive a partial exemption from real property taxes pursuant to section four hundred twenty-one-a of the real property tax law, or (ii) that such residential component in its entirety, both land and building, is receiving or has applied for and is eligible to receive a full exemption from real property taxes. Notwithstanding the foregoing sentence, a "commercial building" shall not include any building that is constructed on block 1049, lot 29 as shown on the tax map of the city of New York for the borough of Manhattan as such map was in effect for the assessment roll published in calendar year two thousand.

d. Subdivision b of this section shall not apply to a tax lot that constitutes a part of a building unless the building viewed as a whole is a commercial building as defined in subdivision c of this section.

e. Any building that receives the benefit conferred pursuant to subdivision b of this section that is subsequently determined not to have been a commercial building as defined in subdivision c of this section for any year in which it received such benefit shall have its assessment corrected for any such year. Taxes shall be imposed in the amount that would have applied had the corrected taxable assessed value appeared on the final assessment roll.

### **§ 11-210 Books of annual record of assessed valuation of real estate indicated by parcel numbers; form and contents.**

a. There shall be kept in the several offices of the department of finance, books of the annual record of the assessed valuation of real estate to be called "the annual record of the assessed valuation of real estate indicated by parcel numbers in the borough of.....", in which shall be entered in detail the assessed valuation of each separately assessed parcel indicated by a parcel number within the limits of the several boroughs.

b. The assessed valuation of each such parcel shall be set down in such books in two columns. In the first column shall be stated, opposite each such parcel, the sum for which such parcel would sell under ordinary circumstances if wholly unimproved; and in the second column, the sum for which such parcel would sell under ordinary circumstances with the improvements, if any thereon.

c. Such books shall be prepared in such manner that the assessed valuations entered therein shall be under sections and block headings as may be most convenient for use in connection with the tax maps described in section 11-203 of this chapter.

### **§ 11-211 Books of annual record of assessed valuation of real estate indicated by identification numbers.**

a. The assessed valuation of all taxable real property indicated by identification numbers shall be entered in the main office of the department of finance, and in the branch office in the borough where the same is assessed.

b. The assessors in the districts in the several boroughs which may be assigned to them for that purpose shall furnish to the commissioner of finance at the main office of the department of finance, a detailed statement under oath of the assessable real property indicated by an identification number in such districts, and shall file a duplicate of such statement in the branch office.

c. There shall be kept in the main office of the department of finance, books of the annual record of the assessed valuation of real estate to be known as "the annual record of the assessed valuation of real estate indicated by identification numbers", in which shall be entered the assessed valuations of the real property mentioned in this section.

### **§ 11-212 Power of the commissioner of finance to equalize assessments before opening books.**

a. Before opening the several books of annual record of assessed valuation for public inspection, the commissioner of finance shall fix the valuations of property for the purpose of taxation throughout the city at such sums as will, in the commissioner's judgment, establish a just and equal relation between the valuations of property in each borough and throughout the entire city.

b. To this end the assessors or other persons having charge of the borough offices are required to transmit to the commissioner of finance in each year a report of the assessed valuation of real property in the several boroughs at such time prior to the fifteenth day of January as such commissioner may prescribe.

### **§ 11-213 Errors in annual records or assessment-rolls.**

The omission from the several books of annual record of assessed valuations or from the assessment-rolls in respect to the entry therein of the name of

the rightful owner or owners of real estate, whether individuals or corporations, shall not invalidate any tax or assessment. In such case, however, no tax shall be collected except from the real estate so assessed.

#### **§ 11-214 Procedure on apportionment of assessment.**

a. The commissioner of finance may apportion any assessment in such manner as he or she shall deem just and equitable, and forthwith cause such assessment to be cancelled and new assessments, equal in the aggregate to the cancelled assessment, to be made on the proper books and rolls. Within five days thereafter the commissioner of finance shall cause written notice of the new assessments to be mailed to the owners of record of the real estate so assessed at their last known residence or business address, and an affidavit of the mailing of such notice to be filed in the main office of the department of finance.

b. When such notice is mailed after the first day of February such owners may apply for correction of such assessments within twenty days after the mailing of such notice with the same force and effect as if such application were made on or before the first day of March in such year.

#### **§ 11-215 Entry of corrections made by tax commission.**

Upon receiving notice of a correction of an assessment made by the tax commission, the commissioner of finance shall cause the amount of the assessment as corrected to be entered upon the proper books of annual record and the assessment-rolls for the year for which such correction is made.

#### **§ 11-216 Reduction in assessments; publication.**

a. There shall be published annually in the City Record a list of all reductions in real property assessments granted by the tax commission identifying the name of the property owner, the address and the amount of reduction.

b. 1. No reduction shall be granted for an income-producing property unless there is submitted to the tax commission a statement of income and expenses in the form prescribed by the tax commission and which shall be, in the case of property with an assessed value of \$5,000,000 or more, certified by a certified public accountant. The commissioner granting such reduction in assessment shall state in a short memorandum the basis upon which the reduction is granted.

2. (a) *Definitions.* For purposes of this paragraph, the term "adjustment year" means the fiscal year beginning July 1, 2019 and the fiscal year beginning July 1 of every fifth year thereafter.

(b) In the adjustment year beginning July 1, 2024, and in every adjustment year thereafter, the tax commission shall calculate, in accordance with subparagraph (c) of this paragraph, the assessed value threshold for purposes of paragraph 1 of this subdivision. An increase or decrease in such assessed value threshold, if any, shall apply beginning with the fiscal year immediately following the adjustment year.

(c) The assessed value threshold for purposes of paragraph 1 of this subdivision shall be an amount equal to the assessed value threshold in effect for the current adjustment year increased or decreased by the aggregate percentage change in the assessed value of all properties in tax classes two and four as reported by the department of finance on the final assessment roll applicable to the current adjustment year when compared to the assessed value of all properties in tax classes two and four as reported by the department of finance on the final assessment roll applicable to the immediately preceding adjustment year, rounded to the nearest one hundred thousand dollars.

(d) In the adjustment year beginning July 1, 2024, and in every adjustment year thereafter, the tax commission shall provide notice of the assessed value threshold for purposes of paragraph 1 of this subdivision by submitting notice of such assessed value threshold for publication in the City Record and posting written notice of the assessed value threshold on the tax commission's website and on any relevant forms for the fiscal year immediately following the adjustment year issued by the tax commission that an owner of an income-producing property must submit to be granted a reduction in assessment.

(Am. L.L. 2019/042, 2/24/2019, retro. eff. 1/1/2019)

#### **§ 11-217 Assessment-rolls; form and contents.**

Assessment-rolls shall be so arranged with respect to number of columns and shall contain such entries as the commissioner of finance shall prescribe, sufficient to identify the property assessed and to show its total assessed valuation. Real estate shall be described therein by the numbers by which such property is designated on the tax maps and in the several books of the annual record of the assessed valuation of real estate, and such numbers shall import into the assessment-rolls any necessary identifying description shown by the tax maps.

#### **§ 11-218 Assessment-rolls; delivery to council or city clerk.**

a. The council shall meet at noon, on the day of delivery of the rolls, other than a Saturday, Sunday, or legal holiday, at the city hall or usual place of meeting for the purpose of receiving the assessment-rolls and performing such other duties in relation thereto as are prescribed by law.

b. If the council fails to meet as herein prescribed, the rolls shall be delivered to the city clerk with the same effect as if delivered to the council.

#### **§ 11-219 Books of annual record; delivery for publication.**

Within two weeks after the delivery of the assessment-rolls to the council, the commissioner of finance shall furnish to the director of the City Record a copy of the several books of the annual record of the assessed valuation of real estate, omitting, however, the two columns headed respectively "size of house" and "houses on lot."

#### **§ 11-220 Council; date of meeting to fix tax rate.**

The council shall meet on a day other than a Saturday, Sunday or legal holiday, to fix the annual tax rate.

#### **§ 11-221 Extension of tax on assessment-rolls or upon assessment-roll cards.**

The respective sums to be paid as taxes on the valuation of real property, may be set down in the assessment-rolls, or upon assessment-roll cards.

#### **§ 11-222 Tax account of the commissioner of finance.**

Upon notification from the public advocate of the amount of taxes mentioned in such assessment-rolls and tax warrants, the comptroller shall cause the proper sum to be charged to the commissioner of finance for collection.

#### **§ 11-223 Apportionment of taxes.**

a. If a sum of money in gross has been or shall be taxed upon any lands or premises, any person or persons claiming any dividend or undivided part thereof may pay such part of such sum so taxed and of any interest and charges due or charged thereon, as the commissioner of finance may deem to be just and equitable.

b. The commissioner of finance shall apportion the assessed valuation of such lands or premises.

c. The remainder of the sum of money so taxed and the interest and charges shall be a lien upon the residue of the land and premises only, and the tax lien upon such residue may be sold to satisfy such tax, interest or charges thereon, in the same manner as though the residue of said tax had been

imposed only upon such residue of such lands or premises.

### **§ 11-224 Interest on unpaid taxes.**

a. If any tax on real estate which shall have become due and payable prior to January first, nineteen hundred thirty-four, is unpaid in whole or in part, the commissioner of finance shall charge, receive and collect interest upon the amount of such tax or such part thereof, to be calculated to the date of payment at the rate of seven per centum per annum from the date when such tax or such part thereof became due and payable to January first, nineteen hundred thirty-four, at the rate of ten per centum per annum from January first, nineteen hundred thirty-four to May first, nineteen hundred thirty-seven, or at the rate of seven per centum per annum for such period if the comptroller and the commissioner of finance, in their discretion, both determine that the payment of any tax arrears at such reduced rate of interest may operate to save the property upon which such taxes are in arrears from foreclosure or encourage its development or is otherwise in the public interest, at the rate of seven per centum per annum from May first, nineteen hundred thirty-seven to August first, nineteen hundred sixty-nine, and from August first, nineteen hundred sixty-nine to December thirty-first, nineteen hundred seventy-six, at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of one per centum per month if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land, and from January first, nineteen hundred seventy-seven at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of fifteen per centum per annum if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land.

b. If any tax on real estate which shall have become due and payable after January first, nineteen hundred thirty-four and prior to April first, nineteen hundred thirty-seven, is unpaid in whole or in part, the commissioner of finance shall charge, receive and collect interest upon the amount of such tax or such part thereof, to be calculated to the date of payment at the rate of ten per centum per annum from the date on which such tax or such part thereof became due and payable to May first, nineteen hundred thirty-seven, or at the rate of seven per centum per annum for such period if the comptroller and the commissioner of finance, in their discretion, both determine that the payment of any tax arrears at such reduced rate of interest may operate to save the property upon which such taxes are in arrears from foreclosure or encourage its development or is otherwise in the public interest, at the rate of seven per centum per annum from May first, nineteen hundred thirty-seven to August first, nineteen hundred sixty-nine, from August first, nineteen hundred sixty-nine to December thirty-first, nineteen hundred seventy-six, at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of one per centum per month if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land, and from January first, nineteen hundred seventy-seven, at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of fifteen per centum per annum if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land.

c. If any tax on real estate which shall have become due and payable on or after April first, nineteen hundred thirty-seven and prior to August first, nineteen hundred sixty-nine is unpaid in whole or in part, the commissioner of finance shall charge, receive and collect interest upon the amount of such tax or such part thereof, to be calculated to the date of payment at the rate of seven per centum per annum from the day on which such tax or such part thereof became due and payable to August first, nineteen hundred sixty-nine, from August first, nineteen hundred sixty-nine to December thirty-first, nineteen hundred seventy-six, at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of one per centum per month if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land, and from January first, nineteen hundred seventy-seven at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of fifteen per centum per annum if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land.

d. If any tax on real estate which shall have become due and payable on or after August first, nineteen hundred sixty-nine and prior to December thirty-first, nineteen hundred seventy-six, is unpaid in whole or in part, the commissioner of finance shall charge, receive and collect interest upon the amount of such tax or such part thereof, to be calculated from the date on which such tax or such part thereof became due and payable to December thirty-first, nineteen hundred seventy-six, at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of one per centum per month if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land, and from January first, nineteen hundred seventy-seven at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of fifteen per centum per annum if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land.

e. If any tax on real estate which shall become due and payable at any time on or after January first, nineteen hundred seventy-seven, shall remain unpaid in whole or in part on the fifteenth day following the date on which the same shall become due and payable, the commissioner of finance shall charge, receive and collect interest upon the amount of such tax or such part thereof remaining unpaid on that date, to be calculated from the day on which such tax or such part thereof became due and payable to the date of payment at the rate of seven per centum per annum if the annual tax on a parcel is two thousand dollars or less, and at the rate of fifteen per centum per annum if the annual tax on a parcel is more than two thousand dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land.

f. If any tax on real estate which shall become due and payable at any time on or after July first, nineteen hundred seventy-nine, shall remain unpaid in whole or in part on the fifteenth day following the date on which the same shall become due and payable, or if any tax on real estate which became due and payable prior to July first, nineteen hundred seventy-nine shall remain unpaid on that date, the commissioner of finance shall charge, receive and collect interest upon the amount of such tax or such part thereof remaining unpaid, to be calculated, in the case of any tax which shall become due and payable on or after July first, nineteen hundred seventy-nine, from the day on which such tax or such part thereof became due and payable, and in the case of any tax which became due and payable prior to July first, nineteen hundred seventy-nine, from July first, nineteen hundred seventy-nine, to the date of payment at the rate of seven per centum per annum if the annual tax on a parcel is two thousand seven hundred fifty dollars or less, and at the rate of fifteen per centum per annum if the annual tax on a parcel is more than two thousand seven hundred fifty dollars or, irrespective of the annual tax, if a parcel consists of vacant or unimproved land. Any interest accrued prior to July first, nineteen hundred seventy-nine, pursuant to the preceding subdivisions of this section shall be unaffected by the provisions of this subdivision.

g. No later than the twenty-fifth day of May of each year, the banking commission shall transmit a written recommendation to the council of a proposed interest rate to be charged for nonpayment of taxes on real estate in those cases where the annual tax on a parcel is more than two thousand seven hundred fifty dollars or where, irrespective of the annual tax, a parcel consists of vacant or unimproved land. In making such recommendations the commission shall consider the prevailing interest rates charged for commercial loans extended to prime borrowers by commercial banks operating in the city and shall propose a rate of at least six per centum per annum greater than such rates. The council may by resolution adopt an interest rate to be applicable to the aforementioned parcels and may specify in such resolution the date on which such interest rate is to take effect. This subdivision shall not apply to any fiscal year beginning on or after July first, two thousand five.

h. Notwithstanding anything to the contrary contained in the recommendation transmitted by the banking commission to the city council relative to the proposed rate of interest to be charged during the fiscal year of the city commencing July first, nineteen hundred seventy-nine in the case of nonpayment of real estate taxes, or contained in the resolution adopted by the council in accordance with such recommendation, the council hereby sets the interest rate to be charged during the fiscal year of the city commencing July first, nineteen hundred seventy-nine for nonpayment of real estate taxes at eighteen per centum per annum where the annual tax on a parcel is more than two thousand seven hundred fifty dollars or where the parcel consists of vacant or unimproved land.

i. The interest mentioned in the foregoing subdivisions of this section shall be paid over and accounted for from time to time by such commissioner of finance as a part of the tax collected by him or her.

j. When an installment agreement has been entered into pursuant to any of the provisions of chapter four of this title, during the period beginning on the date this subdivision takes effect and ending April thirtieth, nineteen hundred eighty-two, the commissioner of finance shall, notwithstanding any higher rate of interest prescribed pursuant to applicable law, and unless a lower rate of interest is applicable to a parcel covered by such an agreement,

charge, collect and receive interest on the arrears due and payable under such agreement, to be calculated at the rate of ten percent per annum from May first, nineteen hundred eighty-two to the date of payment of each installment. Any interest accrued or accruing prior to May first, nineteen hundred eighty-two shall not be affected by the provisions of this subdivision but shall be charged, collected and received in the manner and at the rates prescribed pursuant to applicable law. Such ten percent rate of interest shall be applicable only if, as of May first, nineteen hundred eighty-two, (i) there has been no default in such agreement, and (ii) all current taxes, assessments or other legal charges are paid as they become due or within the period of grace provided by law. Where an installment agreement has been entered into prior to May fifth, nineteen hundred eighty-two pursuant to the provisions of either paragraph three of subdivision a of section 11-413 prior to March fourteenth, nineteen hundred seventy-nine or of subdivision a of section 11-405 or subdivision h of section 11-409 of chapter four of this title and said agreement is current as to both installment payments and current taxes, assessments and other legal charges, the commissioner of finance, on application of the party who entered into such agreement, may cancel said agreement and enter into a new agreement containing the terms provided on May fifth, nineteen hundred eighty-two. If any such prior agreement is not cancelled as herein provided, any installments due and payable under such agreement on or after May first, nineteen hundred eighty-two shall be subject to interest at the rate and under the conditions set forth above. In the event of any subsequent default or failure to make timely payment of any installment payment or current tax, assessment or other legal charge, the ten percent rate of interest specified in this subdivision shall thereupon cease to be applicable and the commissioner of finance shall thereafter charge, collect and receive interest in the manner and at the rates prescribed pursuant to applicable law.

k. 1. Notwithstanding any other provision of this section to the contrary, but subject to the exception contained in paragraph two of this subdivision, in the case of an installment of tax on real property described in paragraph b of subdivision four of section fifteen hundred nineteen of the city charter, interest shall be charged, received and collected at the rate established pursuant to this section if such installment shall remain unpaid in whole or in part on the date on which it shall become due and payable. This paragraph shall not apply to any installment of tax that becomes due and payable on or after July first, two thousand five.

2. If the tax rate for any fiscal year of the city has not been set by the fifteenth day of June preceding the start of such fiscal year, interest shall not be charged, received and collected with respect to the first installment of tax which is due and payable on the first day of July in such fiscal year if such installment is paid on or before the extended payment date. For this purpose, the term "extended payment date" means the date which falls the same number of days after the first day of July in such fiscal year as the number of days the date such tax rate is set falls after such fifteenth day of June. This paragraph shall not apply to any installment of tax that becomes due and payable on or after July first, two thousand five.

l. No later than the fifth day following the date of enactment of this subdivision in the year nineteen hundred ninety and no later than May twenty-fifth of each succeeding year, the banking commission shall transmit a written recommendation to the council of proposed interest rates to be charged for nonpayment of taxes on real property in those cases in which the annual tax on a parcel, other than a parcel which consists of vacant or unimproved land, is not more than two thousand seven hundred fifty dollars. In making such recommendations, the banking commission shall consider the prevailing interest rates charged for commercial loans extended to prime borrowers by commercial banks operating in the city. In the case of any such parcel with respect to which the real property taxes are held in escrow and paid to the commissioner of finance by a "mortgage escrow agent," as that term is defined in section fifteen hundred nineteen of the city charter, the proposed rate shall be at least six percent per annum greater than such prevailing prime rate, and in the case of all other such parcels, the proposed rate shall be at least equal to such prevailing prime rate. The council may by resolution adopt interest rates to be applicable to the aforementioned parcels and may specify in such resolution the dates on which such interest rates are to take effect. In the event the council does not adopt interest rates as provided in this subdivision, the interest rates otherwise specified in this section shall be applicable. This subdivision shall not apply to any fiscal year beginning on or after July first, two thousand five.

#### **§ 11-224.1 Interest on unpaid real property tax.**

(a) For real property with an assessed value of two hundred fifty thousand dollars or less, if an installment of tax due and payable is not paid by July fifteenth, October fifteenth, January fifteenth or April fifteenth, interest shall be imposed on such unpaid amounts.

(b) For real property with an assessed value of over two hundred fifty thousand dollars, if an installment of tax due and payable is not paid by July first or January first, interest shall be imposed on such unpaid amounts.

(c) Interest rates on tax due and payable on or after July first, two thousand five. If the council does not adopt interest rates, the rates shall be (a) for real property with an assessed value of two hundred fifty thousand dollars or less, seven percent per annum; (b) for real property with an assessed value of over two hundred fifty thousand dollars but no greater than four hundred fifty thousand dollars, thirteen percent per annum; and (c) for real property with an assessed value of over four hundred fifty thousand dollars, fifteen percent per annum.

(d) (i) Any tax or part of a tax that became due before July first, two thousand five and remains unpaid after June thirtieth, two thousand five, shall continue to accrue interest until paid at the rate applicable under this section.

(ii) This section shall not apply to interest accrued before July first, two thousand five.

(e) *Council adopted rates.* By May thirteenth of each year, the banking commission shall send a written recommendation to the council of a proposed interest rate to be charged for nonpayment of taxes on real property. The commission shall consider the prevailing interest rates charged for commercial loans extended to prime borrowers by commercial banks operating in the city and:

(i) for real property with an assessed value of two hundred fifty thousand dollars or less, shall propose a rate at least equal to such prevailing prime rate;

(ii) for real property with an assessed value of over two hundred fifty thousand dollars but no greater than four hundred fifty thousand dollars, shall propose a rate of at least four percent per annum greater than such prevailing prime rate;

(iii) for real property with an assessed value of over four hundred fifty thousand dollars, shall propose a rate of at least six percent per annum greater than such prevailing prime rate.

(e-1) *Report on recommendation.* The banking commission's recommendation provided pursuant to subdivision e of this section shall include a report describing the factors considered when determining the recommendation and the rationale for the use of such factors. Such report shall include the interest rate charged for nonpayment of taxes on real property in comparable cities for the two previous fiscal years. Such report shall further include, in a searchable and machine-readable format, sortable by council district, real property tax class, and real property tax sub class, the following information for the current fiscal year and two previous fiscal years, disaggregated by real property with an assessed value of over four hundred fifty thousand dollars, real property with an assessed value of over two hundred fifty thousand dollars but no greater than four hundred fifty thousand dollars, and real property with an assessed value of two hundred fifty thousand dollars or less, provided that such information shall be reported for fiscal years prior to the 2016 fiscal year only to the extent such information is available:

(i) the total tax collected from all real properties subject to taxation within the city, disaggregated by fiscal year;

(ii) the total number of the real properties described in paragraph (i) of this subdivision for which an installment of tax due and payable remained unpaid as of April fifteenth of a fiscal year included in the report, disaggregated by fiscal year;

(iii) the delinquency rate, which shall be calculated by dividing the total number of the real properties described in paragraph (ii) of this subdivision by the total number of the real properties described in paragraph (i) of this subdivision;

(iv) the total amount of real property tax that was not timely paid for the real properties described in paragraph (ii) of this subdivision;

(v) the average amount of real property tax that was not timely paid for the real properties described in paragraph (ii) of this subdivision;

- (vi) the total amount of interest accrued on the real property tax that was not timely paid for the real properties described in paragraph (ii) of this subdivision;
- (vii) the average amount of interest accrued on the real property tax that was not timely paid for the real properties described in paragraph (ii) of this subdivision;
- (viii) the net interest earned by the city, which shall be calculated by subtracting the interest income not earned on real property tax that was not timely paid from the interest income earned on real property tax collected; and
- (ix) any other information deemed relevant by the commission.

(f) If the tax rate for any fiscal year of the city is not set by the fifteenth of June preceding the start of such fiscal year, interest shall not be charged for the first installment of tax which is due on the first day of July in such fiscal year if such installment is paid on or before the extended payment date. For this purpose, the term "extended payment date" means the date which falls the same number of days after the first day of July in such fiscal year as the number of days the date such tax rate is set falls after such fifteenth day of June.

(g) For purposes of this section, property held in the cooperative form of ownership shall not be deemed to have an assessed value of over two hundred fifty thousand dollars if the property's assessed value divided by the number of residential dwelling units is two hundred fifty thousand dollars or less per unit.

(Am. L.L. 2015/030, 4/20/2015, eff. 4/20/2015; Am. L.L. 2021/024, 2/28/2021, retro. eff. 1/1/2021)

### **§ 11-225 Power of tax commission to remit or reduce taxes.**

The tax commission shall have power to remit or reduce a tax imposed upon real property where lawful cause therefor is shown or where such tax is found to be excessive or otherwise erroneous, but such remission or reduction shall be made only with respect to an assessment for which an application for correction has been made pursuant to section one hundred sixty-three of the charter, and no such remission or reduction shall be made when a claim to correct the assessment or recover the tax would be barred by passage of time or other adequate defense, or when, at the time that the determination is rendered, applications for correction or other proceedings are pending to review the assessment of such property for more than one subsequent fiscal year. Notwithstanding the foregoing provisions of this section, the tax commission shall have no power to remit or reduce a tax pursuant to this section more than five years after the last day on which an application for correction could have been filed to appeal the unlawful or erroneous assessment upon which such tax was based. If such tax shall have been paid the commissioner of finance is authorized to refund or credit the amount of any such remission or reduction granted pursuant to this section. When the correction results from an application for correction made by the board of managers of a condominium, a refund may be paid to the board of managers for distribution to the individual unit owners with the consent of such board and on such conditions as the commissioner deems appropriate.

### **§ 11-226 Special right of entry; certificate of president.**

A right of entry upon real property and into buildings and structures at all reasonable times to ascertain the character of the property shall not be allowed to any person acting in behalf of the tax commission, other than the officials mentioned in sections one hundred fifty-six and fifteen hundred twenty-one of the charter, unless a certificate therefor, executed in writing and signed by the president of the tax commission, is presented by such person to the owner, lessee or occupant of the premises or his agent before entry thereon is made.

### **§ 11-227 Duties of authorized employees in examining applicants.**

- a. Employees of the tax commission, when authorized to take testimony on application, shall reduce such testimony to writing.
- b. Within ten days after the evidence on any application is taken, they shall transmit the application and testimony so taken, with their recommendation, to the tax commission at its main office or such other office as the commission may prescribe.

### **§ 11-228 Testimony taken on application to constitute part of record.**

All written testimony taken by the tax commission, by a commissioner, or by an employee of the commission authorized to take testimony on applications, shall constitute part of the record of the proceedings upon any assessment.

### **§ 11-229 Solicitation of retainers prohibited.**

It shall be unlawful for any person or his or her or its agents or employee, or any person acting on his or her or its behalf, to solicit, or procure through solicitation, either directly or indirectly, any retainer or agreement:

- (a) Authorizing such person, or his or her or its agent, employee or any person acting on his or her or its behalf, to make application to the commissioner of finance or tax commission for the correction of a tentative or final assessed valuation of real property on behalf of an owner of such property or other person claiming to be aggrieved, or
- (b) Authorizing such person, or his or her or its agent, employee or any person acting on his or her or its behalf, to appear for such purpose or represent such owner or aggrieved person before such commission or a commissioner or any other officer or employee authorized by law to act upon such application, examine applicants, take testimony, make or recommend the making of a correction of any such assessed valuation, or take any other official action in relation to any such correction. Any violation of this section shall be a misdemeanor.

### **§ 11-230 Issuance of final determination; limitation of time.**

Except as otherwise provided in section one hundred sixty-five of the charter, the final determination of the tax commission upon any application for the correction of an assessment and upon the evidence taken thereunder shall, where the evidence is taken by the commission or by a commissioner, be rendered within thirty days after the hearing of such application is closed. Where the evidence is taken by an employee of the tax commission authorized to take testimony on applications, the final determination shall be rendered within thirty days after the application and the testimony hereon shall have been filed with the commission at its main office. Immediately upon making a correction of an assessment, the tax commission shall notify the commissioner of finance thereof.

### **§ 11-231 Proceeding to review tax assessment; contents of petition.**

- a. Any person or corporation claiming to be aggrieved by the assessed valuation of real property may commence a proceeding to review or correct on the merits a final determination of the tax commission by serving on the president of the tax commission, or his or her duly authorized agent, a copy of a verified petition as prescribed by law. No such petition shall be accepted unless, prior to the service thereof, an index number has been obtained from the clerk of the county in which the property is located. Within ten days after a proceeding has been commenced as hereinbefore provided, the original verified petition with proof of service shall be filed in the office of the clerk of the court in which the proceeding is to be heard.
- b. Such review shall be allowed only on one or more of the following grounds, which must be specified in such petition:
  - 1. That the assessment is illegal, and stating the particulars of the alleged illegality, or
  - 2. That the assessment is erroneous by reason of over-valuation, or



3. That the assessment is erroneous by reason of inequality, in that it has been made at a higher proportionate valuation than the assessment of other real property on the assessment rolls of the city for the same year, and for assessments made after December thirty-first, nineteen hundred eighty-one, other real property within the same class as defined in section eighteen hundred two of the real property tax law, specifying the instances in which such inequality exists and the extent thereof, and stating that the petitioner is or will be injured thereby, or

4. That the real property is misclassified, and stating the class in which it is claimed the property should be classified.

c. The proceeding shall be maintained against the tax commission either by naming the president and the commissioners of the tax commission individually, or by naming the tax commission of the city of New York generally.

d. Such proceeding to review and all proceedings thereunder shall be brought at a special term of the supreme court in the judicial district where the real property so assessed is situated.

e. The justice or referee before whom such proceeding shall be heard may inspect the real property which is the subject of the proceeding.

### **§ 11-232 Comptroller; rates of interest on taxes and assessments.**

The comptroller shall not reduce the rate of interest upon any taxes or assessments below the amount fixed by law.

### **§ 11-233 Cancellation of unpaid taxes.**

When it shall appear to the comptroller that the unpaid taxes or assessments, or both, together with the interest and penalties thereon which may have been levied upon a parcel of real estate subject to easements which were in existence prior to the levying of such taxes or assessments, equal or exceed the sum for which, under ordinary circumstances, such parcel of real estate would sell subject to such easements, the comptroller, with the written approval of the corporation counsel, may settle and adjust such unpaid taxes or assessments, or both, with the interest and penalties thereon, and when it shall appear to the comptroller that such parcel of real estate would sell under ordinary circumstances subject to such easements for only a nominal sum, then the comptroller with the written approval of the corporation counsel may cancel such unpaid taxes and assessments together with the interest and penalties thereon.

### **§ 11-234 Cancellation of taxes and assessments in Queens county.**

The comptroller, with the written consent of the corporation counsel, is authorized, on application being made by any person interested, to compromise and settle claims of the city for unpaid taxes and assessments, and sales for the same, within the territory formerly comprised within the boundaries of Queens county, now borough of Queens, as were imposed, confirmed, levied, or became liens upon the lands in the county of Queens, now borough of Queens, prior to January first, eighteen hundred ninety-eight.

### **§ 11-235 Board of estimate; power to cancel taxes, assessments and water rents.**

The board of estimate, upon the written certificate of the comptroller approving the same, with whom application for relief under this section shall be filed, in its discretion and upon such terms as it may deem proper, by a unanimous vote, may cancel and annul all taxes, assessments and water rents and sales to the city of any or all of the same which now are or may hereafter become a lien against any real estate owned by any corporation, entitled to exemption of such real estate owned by it from local taxation under the provisions of the real property tax law formerly contained in article one, section four, subdivision six of the tax law, provided that all taxes and water rents from which relief is asked be apportioned as of the date such corporation took title to such real estate, and that such taxes and water rents so apportioned to the period before such date, and all assessments which became a lien before such date, be paid. The commissioner of finance shall mark the city's books and rolls of taxes, assessments and water rents in accordance with the determination of the board of estimate in every case in which action shall be taken under the provisions of this section.

### **§ 11-236 Powers of board of estimate to cancel taxes, water rents and assessments.**

The council by local law may authorize the board of estimate, by unanimous vote, upon the written consent of the comptroller, to cancel and annul any taxes, water rents and assessments constituting a lien against any real property owned by a corporation whose property is exempt from taxation under the provisions of the real property tax law, notwithstanding that such taxes, water rents or assessments shall have become a lien against such real property while owned by a person or corporation not exempt under such section. The commissioner of finance shall mark the city's books and rolls of taxes and assessments in accordance with the determination of the board of estimate under such local law.

### **§ 11-237 Cancellation of assessments, water and sewer rents on real property acquired by tax enforcement foreclosure proceedings.**

Upon the cancellation of unpaid assessments, water and sewer rents by the city collector pursuant to section 11-353 of this title, the comptroller shall charge the unpaid amounts for assessments for local improvements, so cancelled, to the surplus in the appropriate assessment fund; the unpaid amounts for water charges, meter setting and repair, meter glasses and sewer rents, so cancelled, shall be deducted from the accounts receivable of the appropriate fund.

### **§ 11-238 Real property tax surcharge on absentee landlords.**

a. *Imposition of surcharge.* A real property tax surcharge is hereby imposed on class one property, as defined in section eighteen hundred two of the real property tax law, excluding vacant land, that provides rental income and is not the primary residence of the owner or owners of such class one property, or the primary residence of the parent or child of such owner or owners, in an amount equal to zero percent of the net real property taxes for fiscal years beginning on or after July first, two thousand six. As used in this section, "net real property tax" means the real property tax assessed on class one property after deduction for any exemption or abatement received pursuant to the real property tax law or this title.

b. *Rental income, primary residence and/or relationship to owner or owners.* The property shall be deemed to be the primary residence of the owner or owners thereof, if such property would be eligible to receive the real property tax exemption pursuant to section four hundred twenty-five of the real property tax law, regardless of whether such owner or owners has filed an application for, or the property is currently receiving, such exemption. Proof of primary residence and the resident's or residents' relationship to the owner or owners and the absence of rental income shall be in the form of a certification as required by the rules of the commissioner.

c. *Rules.* The department of finance shall have, in addition to any other functions, powers and duties which have been or may be conferred on it by law, the power to make and promulgate rules to carry out the purposes of this section, including, but not limited to, rules related to the timing, form and manner of any certification required to be submitted under this section.

d. *Penalties.*

1. Notwithstanding any provision of any general, special or local law to the contrary, an owner or owners shall be personally liable for any taxes owed pursuant to this section whenever such owner or owners fail to comply with this section or the rules promulgated hereunder, or makes a false or misleading statement or omission and the commissioner determines that such act was due to the owner or owners' willful neglect, or that under such circumstances such act constituted a fraud on the department. The remedy provided herein for an action in personam shall be in addition to any other remedy or procedure for the enforcement of collection of delinquent taxes provided by general, special or local law.

2. If the commissioner should determine, within three years from the filing of an application or certification pursuant to this section, that there was a material misstatement on such application or certification, he or she shall impose a penalty tax against the property of five hundred dollars, in accordance

with the rules promulgated hereunder.

e. *Cessation of use.* In the event that a property granted an exemption from taxation pursuant to this section ceases to be used as the primary residence of such owner or owners or his, her or their parent or child, or produces rental income, such owner or owners shall so notify the commissioner.

## **§ 11-239 Real property tax rebate for certain residential property.**

1. For fiscal years beginning the first of July, two thousand three and ending the thirtieth of June, two thousand nine, a rebate in the amount of the lesser of four hundred dollars or the annual tax liability imposed on the property shall be paid to an owner or tenant-stockholder who, as of the date the application provided for in subdivision four of this section is due, owns a one, two or three family residence or a dwelling unit in residential property held in the condominium or cooperative form of ownership that is the owner or tenant-stockholder's primary residence and meets all other eligibility requirements of this section. If, with respect to the fiscal year beginning on the first of July, two thousand eight and ending on the thirtieth of June, two thousand nine, an increase in average real property tax rates would otherwise be necessary in the resolution of the city council fixing real property tax rates for such fiscal year pursuant to the charter, then the rebate to be paid for such fiscal year shall be reduced or eliminated as follows: where the sum to be raised by such increase is less than seven hundred fifty million dollars, then such rebate shall be reduced by fifty cents for each dollar of increase, and where the sum to be raised by such increase is seven hundred fifty million dollars or more, then such rebate shall be eliminated. Notwithstanding anything to the contrary in sections four hundred twenty-one-a, four hundred twenty-one-b or four hundred twenty-one-g of the real property tax law, an owner or tenant-stockholder whose property is receiving benefits pursuant to such sections shall not be prohibited from receiving a rebate pursuant to this section if such owner or tenant-stockholder is otherwise eligible to receive such rebate. Tenant-stockholders of dwelling units in a cooperative apartment corporation incorporated as a mutual company pursuant to article two, four, five or eleven of the private housing finance law shall not be entitled to the rebate authorized by this section. Such rebate shall be paid by the commissioner of finance to eligible owners or tenant-stockholders in accordance with rules promulgated by the commissioner of finance.

### *2. Eligibility requirements.*

a. To qualify for the rebate pursuant to this section

- (1) the property must be a one, two or three family residence or residential property held in the condominium or cooperative form of ownership;
- (2) the property must serve as the primary residence of one or more of the owners or tenant-stockholders thereof; and

(3) the owner must not be in arrears in the payment of real property taxes in an amount in excess of twenty-five dollars for the fiscal year for which the rebate is claimed and all prior fiscal years, and for residential property held in the cooperative form of ownership, there must be no arrears in the payment of real property taxes in an amount in excess of an average of twenty-five dollars per dwelling unit in such cooperative apartment corporation for the fiscal year for which the rebate is claimed and all prior fiscal years.

b. If legal title to the property is held by one or more trustees, the beneficial owner or owners shall be deemed to own the property for purposes of this subdivision.

### *3. Definitions.* As used in this section:

a. "Applicant" means the owner or owners or tenant-stockholder or tenant-stockholders of the property.

b. "Property" means a one, two or three family residence or a dwelling unit in residential property held in the condominium or cooperative form of ownership.

### *4. Application procedure.* Application procedure.

a. *Generally.* An application for a rebate pursuant to this section for the fiscal year beginning the first of July, two thousand three, shall be made no later than the date published by the commissioner of finance in the city record and in other appropriate general notices pursuant to this subdivision, which date shall be no earlier than thirty days after enactment of a state law authorizing such rebate. An application for a rebate pursuant to this section for fiscal years beginning on or after the first of July, two thousand four and ending on the thirtieth of June, two thousand six, shall be made no later than the fifteenth of March of the fiscal year for which the rebate is claimed. An application for a rebate pursuant to this section for fiscal years beginning on or after the first of July, two thousand six, shall be made no later than the first of September following the fiscal year for which the rebate is claimed. All owners or tenant-stockholders of property who primarily reside thereon must jointly file an application for the rebate on or before the application deadline, unless such owners or tenant-stockholders currently receive a real property tax exemption pursuant to section four hundred twenty-five, four hundred fifty-eight, four hundred fifty-eight-a, four hundred fifty nine-c\* or four hundred sixty-seven of the real property tax law, in which case no separate application for a rebate pursuant to this section shall be required. Such application may be filed by mail if it is enclosed in a postpaid envelope properly addressed to the commissioner of finance, deposited in a post office or official depository under the exclusive care of the United States postal service, and postmarked by the United States postal service on or before the application deadline. Each such application shall be made on a form prescribed by the commissioner of finance, which shall require the applicant to agree to notify the commissioner of finance if his, her or their primary residence changes after receiving the rebate pursuant to this section, or after filing an application for such rebate, if his, her or their primary residence changes after filing such application, but before receiving such rebate. The commissioner of finance may request that proof of primary residence be submitted with the application. No rebate pursuant to this section shall be granted unless the applicant, if required to do so by this subdivision, files an application within the time periods prescribed in this subdivision.

b. *Approval or denial of application.* If the commissioner of finance determines that the applicant is entitled to the rebate pursuant to this section, the commissioner of finance shall approve the application and such owner or tenant-stockholder shall thereafter be entitled to the rebate as provided in this section. If the commissioner of finance determines that the applicant is not entitled to the rebate pursuant to this section, the commissioner of finance shall mail to each applicant not entitled to the rebate a notice of denial of that application for the rebate for that year in accordance with rules for denial of applications to be promulgated by the commissioner of finance. The notice of denial shall specify the reason for such denial and shall be sent on a form prescribed by the commissioner of finance. Failure to mail any such notice of denial or the failure of any applicant to receive such notice shall not prevent the levy, collection and enforcement of taxes on such applicant's property.

### *c. Proof of residency.*

(1) *Requests.* From time to time, the commissioner of finance may request proof of residency from the owner or tenant-stockholder receiving a rebate pursuant to this section.

(2) *Timing.* A request for proof of residency shall be mailed at least sixty days prior to the ensuing application deadline. The owner or tenant-stockholder shall submit proof of his, her or their residency in an application to the commissioner of finance on or before the application deadline.

d. *Review of submission.* The burden shall be on the applicant to establish that the property is his, her or their primary residence and that any other requirements to obtain the rebate are satisfied. If the applicant submits proof of residency on or before the application deadline, and the submission demonstrates to the commissioner of finance's satisfaction that the property is the primary residence of the applicant, and if the requirements of this section are otherwise satisfied, the rebate shall be paid. Otherwise, the commissioner of finance shall discontinue the rebate and, where appropriate, shall proceed as further provided herein.

e. *Oath.* The commissioner of finance shall have the authority to require that statements made in connection with any application filed pursuant to this section be made under oath. Such application shall contain the following declaration: "I certify that all information contained in this application is true and correct to the best of my knowledge and belief. I understand that 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 application null and void." Such application shall also state that the applicant agrees to comply with and be subject to the rules promulgated from time to time by the commissioner of finance pursuant to this section.

5. *Discontinuance of rebate.*

a. *Generally.* The commissioner of finance shall discontinue any rebate paid or granted pursuant to this section if it appears that: (1) the property may not be the primary residence of the owner or tenant-stockholder who received or applied for the rebate, (2) title to the property has been transferred to a new owner or tenant-stockholder, or (3) the property is otherwise no longer eligible for the rebate. For the purposes 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 or 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.

b. *Rights of owners and tenant-stockholders.* Upon determining that a rebate paid or granted pursuant to this section should be discontinued, the commissioner of finance shall mail a notice so stating to the affected owner or tenant-stockholder at the time and in the manner to be provided in rules promulgated by the commissioner of finance. Such owner or tenant-stockholder shall be entitled to seek administrative and judicial review of such action in the manner provided by law, provided, that the burden shall be on the owner or tenant-stockholder to establish eligibility for the rebate.

6. *Recovery of prior rebate.* If the commissioner of finance determines that the owner or tenant-stockholder was (a) not entitled to a rebate under this section, or (b) that a rebate was paid or calculated in error under this section, then the commissioner of finance shall recover or recalculate such rebate and the amount of the rebate or an amount equal to the difference between the rebate originally paid and the amount to which the owner or tenant-stockholder was entitled shall be deducted from any refund otherwise payable, and any balance of such amount remaining unpaid shall be paid to the commissioner of finance within thirty days from the date of mailing by the commissioner of finance of a notice of the amount payable. Such amount payable shall constitute a tax lien on the property as of the date of such notice and, if not paid within such thirty-day period, penalty and interest at the rate applicable to delinquent taxes on such property shall be charged and collected on such amount from the date of such notice to the day of payment, and such amount payable shall be enforceable as a tax lien in accordance with provisions of law relating to the enforcement of tax liens in any such city.

7. *Penalty for material misstatements.*

a. *Generally.* If the commissioner of finance determines, within three years from the payment of a rebate pursuant to this section, that there was a material misstatement in an application filed pursuant to this section or in an application filed pursuant to section four hundred twenty-five of the real property tax law and that such misstatement provided the basis for the payment of a rebate under this section, the commissioner of finance shall proceed to impose a penalty tax against the property of one thousand dollars in addition to recovering the amount of any prior rebate under subdivision six of this section. An application shall be deemed to contain a material misstatement for this purpose when either:

- (1) the applicant claimed the property was his, her or their primary residence, when it was not;
- (2) the applicant claimed the property was eligible for a rebate pursuant to this section, when it was not; or
- (3) the applicant claimed that the applicant owned the property, when the applicant did not.

b. *Procedure.* When the commissioner of finance determines that a penalty tax should be imposed, the penalty tax shall be entered on the next ensuing tentative or final assessment roll. Each owner or tenant-stockholder shall be given notice of the possible imposition of a penalty tax, and shall be entitled to seek administrative and judicial review of such action in the manner provided by law.

c. *Additional consequences.* A penalty tax may be imposed pursuant to this subdivision whether or not the improper rebate has been revoked in the manner provided for by this section.

8. *Rulemaking.* The commissioner of finance shall be authorized to promulgate rules necessary to effectuate the purposes of this section.

9. *Non-disclosure.* The information contained in applications or statements in connection therewith filed with the commissioner of finance pursuant to subdivision four of this section shall not be subject to disclosure under article six of the public officers law.

**§ 11-240 Rebate for owners of certain real property seriously damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve.**

1. *Generally.* Notwithstanding any provision of any general, special or local law to the contrary, for the fiscal year beginning on the first of July, two thousand twelve, a rebate of real property taxes in the amount provided in this section shall be paid by the commissioner of finance to an owner who owned eligible real property as defined in subdivision three of this section or a unit in such eligible real property on the thirtieth of October, two thousand twelve. If legal title to eligible real property, or ownership of shares of stock representing a dwelling unit, is held by one or more trustees, the beneficial owner or owners shall be deemed to own the property or dwelling unit for purposes of this section. Notwithstanding any provision of article four of the real property tax law to the contrary, an owner whose property is receiving benefits pursuant to any other section of article four of the real property tax law shall not be prohibited from receiving a rebate pursuant to this section if such owner is otherwise eligible to receive such rebate.

2. *Definitions.* As used in this section:

a. "Annual tax" means the amount of real property tax that is imposed on a property for the fiscal year beginning on the first of July, two thousand twelve, determined after reduction for any amount from which the property is exempt, or which is abated, pursuant to applicable law.

b. "Assessed valuation" means the assessed valuation of real property that was used to determine the annual tax as defined in paragraph a of this subdivision, and which is not reduced by any exemption from real property taxes. For real property classified as class two or class four real property as defined in subdivision one of section eighteen hundred two of the real property tax law to which subdivision three of section eighteen hundred five of the real property tax law applies, the assessed valuation is the lower of the assessed valuation and transitional assessed valuation as provided in subdivision three of section eighteen hundred five of the real property tax law, and which is not reduced by any exemption from real property taxes.

c. "Commissioner of finance" means the commissioner of finance of the city of New York, or his or her designee.

d. "Cooperative development" means, with respect to properties described in subparagraph (c) of paragraph class one of subdivision one of section eighteen hundred two of the real property tax law, all of the properties, including the land and improvements thereon, as to which the land is held by a single cooperative corporation.

e. "Department of buildings" means the department of buildings of the city of New York.

f. "Department of finance" means the department of finance of the city of New York.

g. "Owner" means the owner of real property, or a tenant-stockholder of a unit in real property held in the cooperative form of ownership on the thirtieth of October, two thousand twelve.

3. *Eligible real property.*

a. For purposes of this section, "eligible real property" means any tax lot that contained, on the applicable taxable status date, class one, class two or class four real property as such classes of real property are defined in subdivision one of section eighteen hundred two of the real property tax law, on which any building has been designated by the department of buildings in accordance with paragraph b of this subdivision.

b. For purposes of this section, a building has been designated by the department of buildings if:

(1) during the period beginning on the first of November, two thousand twelve and ending on the thirtieth of November, two thousand twelve, after inspection by the department, such building has been determined to be seriously damaged and unsafe to enter or occupy or completely demolished as a result of damage caused by the effects of the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve, and such determination has been indicated by a notation on such department's records and/or by the posting of a red placard warning on the building; or

(2) during the period beginning on the first of November, two thousand twelve and ending on the thirtieth of November, two thousand twelve, after inspection by the department, such building has been determined to require repairs or to have a restricted area and such determination has been indicated by a notation on such department's records and/or by the posting of a yellow sticker on the building, and during the period beginning on the first of December, two thousand twelve and ending on the twenty-eighth of December, two thousand twelve, after inspection by the department, such building has been determined to be seriously damaged and unsafe to enter or occupy or completely demolished as a result of damage caused by the effects of the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve, and such determination has been indicated by a notation on such department's records and/or by the posting of a red placard warning on the building.

4. *Amount of rebate.*

a. The amount of the rebate to be paid by the commissioner of finance for eligible real property pursuant to subdivision one of this section shall be equal to two-thirds of the annual tax, multiplied by a fraction, the numerator of which is equal to that portion of the assessed valuation of the eligible real property that is attributable to the improvements on the property, and the denominator of which is equal to the total assessed valuation of the eligible real property.

b. Except as provided in subdivision five of this section, for property held in the cooperative form of ownership, the amount of the rebate to be paid to the owner of a unit therein shall be equal to that proportion of the amount calculated under paragraph a of this subdivision that is attributable to such unit, as determined by the proportional relationship of the owner's share or shares of stock in the cooperative apartment corporation that owns such real property to the total outstanding stock of the cooperative apartment corporation.

c. Eligible real property with no annual tax shall not be eligible for a rebate under this section.

5. *Calculation of rebate for certain class one real property consisting of one family house structures situated on land held in cooperative ownership.*

a. Notwithstanding the provisions of subdivision four of this section, the amount of the rebate to be paid by the commissioner of finance to the owner of a building that was designated by the department of buildings in accordance with paragraph b of subdivision three of this section, that is located on eligible real property that is described in subparagraph (c) of paragraph class one of subdivision one of section eighteen hundred two of the real property tax law, shall be equal to two-thirds of the annual tax on the property of the cooperative development, (1) multiplied by a fraction, the numerator of which is equal to that portion of the assessed valuation of the eligible real property in the cooperative development that is attributable to the improvements on the property, and the denominator of which is equal to the total assessed valuation of the eligible real property in the cooperative development, and (2) multiplied by a second fraction, the numerator of which is equal to the number of buildings in the cooperative development that have been designated by the department of buildings in accordance with paragraph b of subdivision three of this section, and the denominator of which is the total number of buildings that were located in the cooperative development as of the twenty-eighth day of October, two thousand twelve, then (3) divided by the number of buildings in the cooperative development that have been designated by the department of buildings in accordance with paragraph b of subdivision three of this section.

b. Eligible real property described in this subdivision with no annual tax shall not be eligible for a rebate under this section.

6. *Mailing of rebate.*

a. The commissioner of finance shall mail the rebate authorized by this section to the person whose name appears on the records of the department of finance as the owner of the eligible real property or unit located therein on the thirtieth of October, two thousand twelve, at an address on the records of the department of finance as the address of such owner, and if no such address appears on the records of the department of finance, then to the address, if any, appearing in the latest assessment roll as the address of the owner of the eligible real property. Notwithstanding the previous sentence, if an owner has notified the United States postal service of a forwarding address for mail that would otherwise have been sent to any of the addresses described in the previous sentence, then the commissioner of finance may mail the rebate authorized by this section to such forwarding address.

b. Notwithstanding paragraph a of this subdivision, with respect to any rebate to which an owner of a building that was designated by the department of buildings in accordance with paragraph b of subdivision three of this section that is located on eligible real property that is described in subparagraph (c) of paragraph class one of subdivision one of section eighteen hundred two of this chapter is entitled under this section, the commissioner of finance shall mail the rebate to the cooperative development of which the owner's property is a part, at the address on the records of the department of finance as the address of the cooperative corporation that is the owner of the land included in the cooperative development, and if no such address appears on the records of the department of finance, then to the address, if any, appearing in the latest assessment roll as the address of the owner of such land. Notwithstanding the previous sentence, if the cooperative corporation has notified the United States postal service of a forwarding address for mail that would otherwise have been sent to any of the addresses described in the previous sentence, then the commissioner of finance may mail the rebate authorized by this section to such forwarding address.

7. *Recovery of erroneous rebate.* If the commissioner of finance determines (a) that an owner who received a rebate was not entitled to a rebate under this section, or (b) that a rebate was paid or calculated in error under this section, the commissioner of finance shall recover or recalculate such rebate and the amount of the rebate or an amount equal to the difference between the rebate originally paid and the amount to which the owner was entitled shall be deducted from any refund or rebate otherwise payable to the owner, and any balance of such amount remaining unpaid shall be paid to the commissioner of finance no later than the due and payable date provided on a notice of the amount payable mailed by the commissioner of finance. Such amount payable shall constitute a tax lien on the real property owned by such owner as of the due and payable date provided on such notice, and, if not paid by such due and payable date, interest at the rate applicable to delinquent real property taxes on such property shall be charged and collected on such amount from the due and payable date provided on such notice to the date of payment, and such amount payable shall be enforceable as a tax lien in accordance with provisions of law relating to the enforcement of tax liens in any such city.

8. *Rebate not deemed a refund.* Any rebate authorized by this section to be paid by the commissioner of finance shall not be deemed to be a refund of a real property tax payment.

9. *Overpayment.* If, in any proceeding brought pursuant to article seven of the real property tax law, the assessed valuation of eligible real property is reduced for the fiscal year beginning on the first of July, two thousand twelve, and such reduction results in a return of overpayment of real property taxes paid with respect to such fiscal year, the amount of such overpayment shall be reduced by the amount of any rebate paid pursuant to this section. If such overpayment is returned before a rebate is paid pursuant to this section, the amount of any rebate paid pursuant to this section shall be reduced by the amount of such overpayment.

10. *Rulemaking.* The commissioner of finance shall be authorized to promulgate rules necessary to effectuate the purposes of this section.

**§ 11-240.1 Assessment of real property damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve.**

1. *Generally.* Notwithstanding any provision of any general, special or local law to the contrary, the commissioner of finance shall assess affected real property as defined in subdivision three of this section subject to the limitations provided in this section.

2. *Definitions.* As used in this section:

- a. "Actual assessed value" means the assessed value of real property prior to the calculation of any transitional assessed value, and which is not reduced by any exemption from real property taxes.
- b. "Aggregate physical increase" means the sum of physical increases for assessment rolls completed from two thousand fourteen through two thousand twenty.
- c. "Annual tax" means the amount of real property tax that is imposed on a property for a fiscal year, determined after reduction for any amount from which the property is exempt, or which is abated, pursuant to applicable law.
- d. "Annual tax attributable to improvements" means the annual tax, multiplied by a fraction, the numerator of which is equal to the assessed value attributable to improvements on the property for the fiscal year, and the denominator of which is the total assessed value of the property for such fiscal year.
- e. "Assessed value" means the assessed value of real property that was used to determine the annual tax, and which is not reduced by any exemption from real property taxes. For real property classified as class two or class four real property, as defined in subdivision one of section eighteen hundred two of the real property tax law to which subdivision three of section eighteen hundred five of the real property tax law applies, unless otherwise provided, the assessed value is the lower of the actual assessed value and transitional assessed value.
- f. "Assessed value attributable to improvements" means that portion of the assessed value that was used to determine the annual tax attributable to improvements, and which is not reduced by any exemption from real property taxes.
- g. "Commissioner of finance" means the commissioner of finance of the city of New York, or his or her designee.
- h. "Department of finance" means the department of finance of the city of New York.
- i. "Improvements" means buildings and other articles and structures, substructures and superstructures erected upon, under or above the land, or affixed thereto, including bridges and wharves and piers and the value of the right to collect wharfage, crantage or dockage thereon.
- j. "Physical decrease" means the decrease in assessed value from the assessed value on the preceding assessment roll as a result of destruction of property caused by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve, such decrease to which subdivision five of section eighteen hundred five of the real property tax law applies.
- k. "Physical increase" means the increase in assessed value from the assessed value on the preceding assessment roll as a result of an addition to or improvement of existing real property as provided in subdivision five of section eighteen hundred five of the real property tax law, for the purpose of reconstruction or repair in connection with the damage caused by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve, such increase to which subdivision five of section eighteen hundred five of the real property tax law applies subject to the provisions of this section.
- l. "Total square footage of the improvements on the property" means, with respect to an assessment roll, the square footage used by the department of finance in determining the assessed value attributable to improvements on the real property for such assessment roll.
- m. "Transitional assessed value" is the transition assessment calculated pursuant to subdivision three of section eighteen hundred five of the real property tax law, and which is not reduced by any exemption from real property taxes.

3. *Affected real property.* For purposes of this section, "affected real property" means any tax lot that contained, on the applicable taxable status date, class one, class two or class four real property as such class of real property is defined in subdivision one of section eighteen hundred two of the real property tax law, as to which:

- a. the department of finance reduced the assessed value attributable to improvements on the property for the assessment roll completed in two thousand thirteen from the assessed value attributable to improvements on the property for the assessment roll completed in two thousand twelve as a result of damage caused by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve; and
- b. the department of finance increased the assessed value attributable to improvements on the property by means of a physical increase for an assessment roll completed from two thousand fourteen through two thousand twenty.

4. *Limitation on increases of assessed value.* Notwithstanding subdivision five of section eighteen hundred five of the real property tax law and any other provision to the contrary, increases in the assessed value of affected real property shall be limited in the manner specified in this subdivision.

a. Except as provided in paragraph c of this subdivision, for affected real property for which the assessed values on the assessment rolls completed in two thousand fourteen and two thousand fifteen do not reflect a physical increase, the amount of the aggregate physical increase shall not exceed the amount of the physical decrease reflected in the assessed value on the assessment roll completed in two thousand thirteen. Any increase in assessed value from the preceding year in excess of the physical increase reflected in the current assessed value, such physical increase limited as provided in the preceding sentence, shall be subject to the limitations on increases provided in subdivisions one, two and three of section eighteen hundred five of the real property tax law. In no event shall the assessed value of the affected real property appearing on an assessment roll completed for any given year from two thousand fifteen to two thousand twenty exceed what the assessed value would have been that year but for any physical decreases or physical increases reflected in the assessed values on the assessment rolls completed from two thousand thirteen to two thousand twenty.

b. For affected real property for which the assessed value on the assessment roll completed in two thousand fourteen or two thousand fifteen reflects a physical increase, the assessed value as it appeared on the assessment roll completed in two thousand fifteen shall be recalculated as if the limitation in paragraph a of this subdivision had been in effect for the assessment rolls completed in two thousand fourteen and two thousand fifteen. The recalculation of the assessed value that appeared on the assessment roll completed in two thousand fifteen shall not affect the amount of taxes that were due and payable for the fiscal year beginning on the first of July, two thousand fourteen. The assessed value on the assessment rolls completed for each of the years from two thousand sixteen to two thousand twenty shall be subject to the limitation on increases provided in paragraph a of this subdivision. Notwithstanding section fifteen hundred twelve of the charter and any other provision to the contrary, the commissioner of finance is authorized to correct as provided in this paragraph the assessed value of affected real property appearing on the assessment roll completed in two thousand fifteen. Such correction shall be made no later than ninety days after the effective date of a local law adopted in accordance with this section.

c. Notwithstanding paragraphs a and b of this subdivision, in the event that the total square footage of the improvements on the affected real property appearing on any assessment roll completed from two thousand fourteen to two thousand twenty exceeds the total square footage of the improvements on the property appearing on the assessment roll completed in two thousand twelve, the amount of the aggregate physical increase shall not exceed the amount computed by multiplying the sum of the physical increases as calculated subject to this subdivision by a fraction, the numerator of which is equal to the amount of the total square footage of the improvements on the property for the current assessment roll, and the denominator of which is equal to the amount of the total square footage of the improvements on the property for the assessment roll completed in two thousand twelve. For purposes of this paragraph, if improvements on the property located below grade were not included in the total square footage of the improvements on the property for the assessment roll completed in two thousand twelve, such improvements shall not be included in the total square footage for subsequent assessment rolls if the improvements were moved above grade or other building elevations were constructed on the property to prevent or mitigate flooding as part of reconstruction or repair in connection with the damage caused by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve.

5. *Rulemaking.* The commissioner of finance shall be authorized to promulgate rules necessary to effectuate the purposes of this section.

(L.L. 2015/034, 4/28/2015, eff. 5/14/2015)

## Subchapter 2: Exemptions from Real Property Taxation

### Part 1: Exemptions For Certain Residential Property

#### § 11-241 Discrimination in tax exempt projects.

No exemption from taxation, for any project, other than a project hitherto agreed upon or contracted for, shall be granted to a housing company, insurance company, redevelopment company or redevelopment corporation, which shall directly or indirectly, refuse, withhold from, or deny to any person any of the dwelling or business accommodations in such project or property, or the privileges and services incident to occupancy thereof, on account of the race, color or creed of any such person. Any exemption from taxation hereafter granted shall terminate sixty days after a finding by the supreme court of the state of New York that such discrimination is being or has been practiced in such project or property; if within sixty days such discrimination shall have been ended, then the exemption shall not terminate.

#### § 11-242 Exemption and tax abatement in regard to improvements of substandard dwellings.

a. As used in this section, the following terms shall have the following meanings:

1. "Alteration" and "improvement": a physical change in an existing dwelling other than painting, ordinary repairs, normal replacements or maintenance items.

2. "Existing dwelling": a class A multiple dwelling in existence prior to the commencement of alterations for which tax exemption and abatement is claimed under the terms of this section and for which a valuation appears on the annual record of assessed valuation of the city for the fiscal year nineteen hundred fifty-five-nineteen hundred fifty-six.

3. "Start" on alteration or improvement: begin any physical operation undertaken for the purpose of making alterations or improvements to an existing dwelling.

4. "Complete" an alteration or improvement: conclude or terminate any physical operation such as is referred to in the preceding subparagraph, to an extent or degree which renders such building capable of use for the purpose for which the improvements or alterations were intended.

5. "Multiple dwelling": multiple dwellings as that term is defined in section four of the multiple dwelling law.

b. Any increase in assessed valuation resulting from alterations and improvements to existing dwellings to eliminate presently existing unhealthy or dangerous conditions in any existing dwelling or to replace inadequate and obsolete sanitary facilities in any such dwelling, any of which represent fire or health hazards, or to provide central or other appropriate and approved heating, except insofar as the gross cubic content of the building is increased thereby, shall be exempt from taxation for local purposes for a period of twelve years after the taxable status date immediately following the completion of the alterations and improvements, to the extent that such increase in assessed valuation result from the reasonable cost of such alterations and improvements, providing that construction is started after March first, nineteen hundred fifty-five and completed before December thirty-first, nineteen hundred fifty-nine. The assessed valuation allocated to such dwelling after such alterations and improvements during such period of twelve years, exclusive of the increase in valuation which is exempted, shall not exceed the valuation of the previously existing dwelling appearing on the assessment rolls after the taxable status date immediately preceding the commencement of such alterations and improvements. The assessed valuation of the land occupied by such dwelling and any increase in valuation resulting from alterations and improvements other than those made pursuant to this section, shall not be affected by the provisions of this section.

c. The taxes upon any such property, including the land, shall be abated and reduced by an amount equal to eight and one-third per centum of the reasonable cost of such alterations and improvements each year for a period of nine years commencing with the first tax bill for the first tax year in which the exemption herein provided is effective, but such abatement of taxes in any consecutive twelve-month period shall in no event exceed the amount of taxes payable in such period.

d. The department of buildings shall determine and certify the reasonable cost of any such alterations and improvements and for that purpose may adopt rules and regulations, administer oaths to and take testimony of any person, including but not limited to the owner of such property, may issue subpoenas requiring the attendance of such persons and the production of such books, papers or other documents as the department shall deem necessary, may make preliminary estimates of the maximum reasonable cost of such alterations and improvements, may establish maximum allowable costs for specified units, fixtures or work in such alterations or improvements, and may require the submission of plans and specifications of such alteration and improvements before the start thereof. Application forms for the benefits of this section shall be filed with the tax commission between February first and March fifteenth and the tax commission shall certify to the city collector the amount of taxes to be abated and reduced, pursuant to the certification of the commissioner of buildings as herein provided. No such application shall be accepted unless accompanied by copies of certificates of the city planning commission and the commissioner of buildings, as provided in this subdivision and in subdivision e of this section.

e. To the end that alterations and improvements in such property shall interfere as little as practicable with urgently needed public improvements, and the clearance and rebuilding of substandard and insanitary areas, and shall be confined to multiple dwellings which are structurally sound, comply with applicable provisions of law, and are provided with adequate central or other appropriate and approved heating exemption or abatement from taxation hereunder shall be restricted to dwellings which: (1) the city planning commission certify will not unduly interfere with projected public improvements or the clearance and rebuilding of substandard and insanitary areas which certification shall be evidenced by a certificate describing the property involved and shall be issued upon application to such city planning commission in such manner and in such form as may be prescribed by such city planning commission, and (2) which the department of buildings shall certify to be structurally sound, comply with applicable provisions of law and provide central or other appropriate and approved heating, which certification shall be evidenced by a certificate describing the property involved and shall be issued upon application to the department of buildings in such manner and in such form as may be prescribed by such department. Where the improvements and alterations include or benefit that part of a building which is occupied by stores or used for commercial purposes, the cost shall be apportioned so that the benefits of this section shall not be provided for the cost of the improvements or alterations made for store or commercial purposes.

f. Notwithstanding the provisions of the multiple dwelling law, or any local law, ordinance, provisions of this code, rule or regulation, any dwelling to which alterations and improvements are made pursuant to this section and which did not require a certificate of occupancy on April second, nineteen hundred forty-five, may be occupied lawfully after such date upon the completion of such alterations and improvements without such a certificate being obtained, provided, however, that such alterations and improvements shall have been made in conformity with law and the applicable provisions for fire protection required by articles six and seven of the multiple dwelling law.

g. No owner of a dwelling to which the benefits of this section shall be applied nor any agent, employee, manager or officer of such owner shall directly or indirectly deny to any person because of race, color, creed, or religion any of the dwelling accommodations in such property or any of the privileges or services incident to occupancy therein.

h. Each agency to which functions are assigned by this section may adopt rules and regulations for the effectuation of the purposes of this section, and a copy, for each member of the city council, of such rules and regulations shall be filed with the clerk of the city council prior to promulgation.

i. Any person who shall knowingly and wilfully make any false statement as to any material matter in any application for the benefits of this section shall be guilty of an offense punishable by a fine of not more than five hundred dollars or imprisonment for not more than ninety days, or both.

j. The benefits of this section shall not apply to any multiple dwelling which is not subject to the provisions of the emergency housing rent control law, provided that this subdivision shall not operate to rescind any benefits granted by the tax commission under this section prior to July first, nineteen hundred fifty-eight; and further provided that where the benefits herein provided were or are granted by the tax commission on or after July first, nineteen hundred fifty-eight to any multiple dwelling which is decontrolled subsequent to the granting of such benefits, the tax commission shall withdraw such benefits, effective upon the commencement of the first tax year following the tax year in which such multiple dwelling is decontrolled.

### **§ 11-243 Reextension of exemption and tax abatement in regard to improvements of substandard dwellings.**

a. As used in this section, the following terms shall have the following meanings:

1. "Alteration" and "improvement": a physical change in an existing dwelling other than painting, ordinary repairs, normal replacement of maintenance items, provided, however, that ordinary repairs and normal replacement of maintenance items, as defined by rules adopted by the department of housing preservation and development pursuant to subdivision m of this section, shall be eligible for tax exemption and tax abatement under this section provided that repairs and maintenance items:

(1) were started and completed within a twelve-month period,

(2) were made to any common area of the dwelling premises concurrently with a major capital improvement thereto, as defined by rules adopted by the department of housing preservation and development pursuant to subdivision m of this section, and

(3) require the issuance of a permit for at least one item thereof by any city agency, and

(4) the amount of money expended thereon shall not exceed two times the amount expended on the major capital improvement performed concurrently therewith. "Alteration" and "improvement" shall also mean "an abatement" of lead-based paint hazards, as defined in 40 CFR part 745 or any successor regulations in any existing dwelling including any common areas, and shall include an "inspection" and "risk assessment" for lead-based paint hazards, as defined in such part, in a dwelling unit whether such unit is vacant or occupied but shall not include any work performed to comply with a notice of violation issued for a violation of article fourteen of subchapter two of chapter two of title 27 of the administrative code. For purposes of this paragraph, the term, "targeted area" shall mean the geographical area of New York city that is determined by the department of health and mental hygiene to have high rates of children with environmental intervention blood lead levels. The department of housing preservation and development shall establish two schedules of certified reasonable costs for items that are included in an abatement of lead-based paint hazards, one covering such abatement that is performed in an eligible dwelling unit or common area located in the targeted area, and one covering such abatement that is performed in an eligible dwelling unit or common area that is not located in the targeted area. The first such schedules shall be promulgated by the department of housing preservation and development within 180 days of the effective date of this local law and shall be used for any such abatements that are commenced on or after August 2, 2004. Such schedules shall be reviewed by such department biennially following their effective dates and amended as necessary. Notwithstanding any other provision of law or rule, an owner who performs an abatement of lead-based paint hazards pursuant to this paragraph shall not be required to comply with subdivision (y) of this section which provides for filing of a notice of intent form prior to the commencement of work, and no additional fee or penalty shall be due and owing the department at the time of issuance of a certificate of eligibility and reasonable cost for failure to file such notice of intent.

2. "Existing dwelling": except as hereinafter provided in subdivision d of this section, a class A multiple dwelling or a building consisting of one or two dwelling units over space used for commercial occupancy in existence prior to the commencement of alterations for which tax exemption and abatement is claimed under the terms of this section and for which a valuation appears on the annual record of assessed valuation of the city for the fiscal year immediately preceding the commencement of such alterations and improvements.

3. "Start" an alteration or improvement: begin any physical operation undertaken for the purpose of making alterations or improvements to an existing dwelling.

4. "Complete" an alteration or improvement: conclude or terminate any physical operation such as is referred to in the preceding paragraph, to an extent or degree which renders such building capable of use for the purpose for which the improvements or alterations were intended.

5. "Multiple dwelling": multiple dwellings as that term is defined in section four of the multiple dwelling law.

6. "Moderate rehabilitation": shall mean a scope of work which

(a) includes a building-wide replacement of a major component of one of the following systems:

(1) Elevator

(2) Heating

(3) Plumbing

(4) Wiring

(5) Window; and

(b) has a certified reasonable cost of not less than twenty-five hundred dollars, exclusive of any certified reasonable cost for ordinary repairs, for each dwelling unit in existence at the commencement of the rehabilitation; except that the department of housing preservation and development may establish a minimum certified reasonable cost to be greater than twenty-five hundred dollars per dwelling unit pursuant to subdivision m of this section.

7. "Substantially occupied": shall mean an occupancy of not less than sixty percent of all dwelling units immediately prior and during rehabilitation, except that the department of housing preservation and development may establish higher percentages of occupancy pursuant to subdivision m of this section.

8. "Private dwelling" shall mean any building or structure designed and occupied for residential purposes by not more than two families. Private dwellings shall also be deemed to include a series of one-family or two-family dwelling units each of which faces or is accessible to a legal street or public thoroughfare, if each such dwelling unit is equipped as a separate dwelling unit with all essential services, and if each such unit is arranged so that it may be approved as a legal one-family or two-family dwelling.

b. Subject to the limitations provided in subdivision d of this section and the restrictions in this section on conversion of buildings used in whole or in part for single room occupancy, any increase in the assessed valuation of real property shall be exempt from taxation for local purposes to the extent such increase results from the reasonable cost of: (1) the conversion of a class B multiple dwelling to a class A multiple dwelling except insofar as the gross cubic content of such building is increased thereby; or (2) the conversion of any nonresidential building or structure situated in the county of New York to a class A multiple dwelling except insofar as the gross cubic content of such building is increased; or (3) the conversion of any nonresidential building or structure situated in the counties of Bronx, Kings, Queens or Richmond to a class A multiple dwelling except insofar as the gross cubic content of such building or structure is increased thereby; or (4) alterations or improvements to the exterior of an otherwise eligible building or structure visible from a public street pursuant to a permit issued by the landmarks commission with respect to a designated historic or landmark site or structure; or (5) alterations or improvements constituting a moderate rehabilitation of a substantially occupied class A multiple dwelling except insofar as the gross cubic content of such building or structure is increased thereby; or (6) alterations or improvements to an otherwise eligible building or structure commenced after January first, nineteen hundred eighty designed to conserve the use of fuel, electricity or other energy sources or to reduce demand for electricity, including the installation of meters for purposes of measuring the amount of electricity consumed for each dwelling unit, and conversions of direct

metering to a system that includes a master meter and submeters in any cooperative, condominium, or housing development fund company organized under article eleven of the private housing finance law; or (7) alterations or improvements to existing dwellings to eliminate existing unhealthy or dangerous conditions in any such existing dwelling or replace inadequate and obsolete sanitary facilities in any such existing dwelling, any of which represents fire or health hazards, including as improvements asbestos abatement to the extent such asbestos abatement is required by federal, state or local law, except insofar as the gross cubic content of such existing dwelling is increased thereby; or (8) conversion of residential units qualified for the protection of article seven-C of the multiple dwelling law in buildings or portions thereof registered with the New York city loft board as interim multiple dwellings pursuant to such article to units which are in compliance with the standards of safety and fire protection set forth in article seven-B of the multiple dwelling law or to units which have a certificate of occupancy as class A multiple dwellings; or (9) alterations or improvements commenced on or after September first, nineteen hundred eighty-seven constituting a substantial rehabilitation of a class A multiple dwelling, or a conversion of a building or structure into a class A multiple dwelling, as part of a program to provide housing for low and moderate income households as defined by the department of housing preservation and development pursuant to the rules and regulations promulgated pursuant to subdivision m of this section, provided that such alterations or improvements or conversions shall be aided by a grant, loan or subsidy from any federal, state or local agency or instrumentality, including, in the discretion of the department of housing preservation and development, a subsidy in the form of a below market sale from the city of New York; or (10) alterations or improvements to any private dwelling or conversion of any private dwelling to a multiple dwelling or conversion of any multiple dwelling to a private dwelling, provided that such alterations, improvements or conversions are part of a project that has applied for or is receiving benefits pursuant to this section and shall be aided by a grant, loan or subsidy from any federal, state or local agency or instrumentality. Such conversions, alterations or improvements shall be completed within thirty months after the date on which same shall be started except that such thirty month limitation shall not apply to conversions of residential units which are registered with the loft board in accordance with article seven-C of the multiple dwelling law pursuant to paragraph eight of this subdivision. Notwithstanding the foregoing, a sixty-month period for completion shall be available for alterations or improvements undertaken by a housing development fund company organized pursuant to article eleven of the private housing finance law, which are carried out with the substantial assistance of grants, loans or subsidies from any federal, state or local governmental agency or instrumentality or which are carried out in a property transferred from the city of New York if alterations and improvements are completed within seven years after the date of transfer. In addition, the department of housing preservation and development may grant an extension of the period of completion for any project carried out with the substantial assistance of grants, loans or subsidies from any federal, state or local governmental agency or instrumentality, if such alterations, improvements or conversions are completed within sixty months from commencement of construction. Provided, further, that such conversions, alterations or improvements shall in any event be completed prior to June thirtieth, two thousand twenty. Exemption for conversions, alterations or improvements pursuant to paragraph one, two, three, four, six, seven, eight or ten of this subdivision shall continue for a period not to exceed fourteen years and begin no sooner than the first tax period immediately following the completion of such conversions, alterations or improvements. Exemption for alterations or improvements pursuant to paragraph five or nine of this subdivision shall continue for a period not to exceed thirty-four years and shall begin no sooner than the first tax period immediately following the completion of such alterations or improvements. Such exemption shall be equal to the increase in the valuation, which is subject to exemption in full or proportionally under this subdivision for ten or thirty years, whichever is applicable. After such period of time, the amount of such exempted assessed valuation of such improvements shall be reduced by twenty percent in each succeeding year until the assessed value of the improvements is fully taxable. Provided, however, exemption for any conversions, alterations or improvements, which are aided by a loan or grant under article eight, eight-A, eleven, twelve, fifteen, or twenty-two of the private housing finance law, section six hundred ninety-six-a or section ninety-nine-h of the general municipal law, or section three hundred twelve of the housing act of nineteen hundred sixty-four (42 U.S.C. § 1452b), or the Cranston-Gonzalez national affordable housing act, (42 U.S.C. § 12701, et seq.), or started after July first, nineteen hundred eighty-three by a housing development fund company organized pursuant to article eleven of the private housing finance law which are carried out with the substantial assistance of grants, loans or subsidies from any federal, state or local governmental agency or instrumentality or which are carried out in a property transferred from the city of New York and where alterations and improvements are completed within seven years after the date of transfer may commence at the beginning of any tax period subsequent to the start of such conversions, alterations or improvements and prior to the completion of such conversions, alterations or improvements. The assessed valuation of the land occupied by such dwelling and any increase in assessed valuation resulting from conversions, alterations, or improvements other than those made pursuant to this section shall not be affected by the provisions of this section.

b-1. Notwithstanding the provisions of subdivision b of this section, alterations, improvements or conversions of any building or structure that are eligible for benefits pursuant to subdivision b of this section except insofar as the gross cubic content of such building or structure is increased thereby shall be eligible for such benefits insofar as the gross cubic content of such building or structure is increased thereby provided that:

(1) for all tax lots now existing or hereafter created, at least fifty percent of the floor area of the completed building or structure consists of the pre-existing building or structure that was converted, altered or improved in accordance with subdivision b of this section, and

(2) for tax lots now existing or hereafter created within the following area in the borough of Manhattan, such conversions, alterations or improvements are aided by a grant, loan or subsidy from any federal, state or local agency or instrumentality: beginning at the intersection of the United States pierhead line in the Hudson river and the center line of Chambers street extended, thence easterly to the center line of Chambers street and continuing along the center line of Chambers street to the center line of Centre street, thence southerly along the center line of Centre street to the center line of the Brooklyn Bridge to the intersection of the Brooklyn Bridge and the United States pierhead line in the East river, thence northerly along the United States pierhead line in the East river to the intersection of the United States pierhead line in the East river and the center line of one hundred tenth street extended, thence westerly to the center line of one hundred tenth street and continuing along the center line of one hundred tenth street to its westerly terminus, thence westerly to the intersection of the center line of one hundred tenth street extended and the United States pierhead line in the Hudson river, thence southerly along the United States pierhead line in the Hudson river to the point of beginning.

(3) For purposes of this subdivision, "floor area" shall mean the horizontal areas of the several floors or any portion thereof of a dwelling or dwellings and accessory structures on a lot measured from the exterior faces of exterior walls or from the center line of party walls.

(4) Nothing in this subdivision shall be construed to provide tax abatement benefits pursuant to subdivision c of this section for the costs attributable to the increased cubic content in any such building or structure.

c. (1) Except as provided in paragraphs two, three and four of this subdivision, the taxes upon any real property, including the land, may be abated each year for a period of not more than twenty years by an amount no greater than eight and one-third per centum of the reasonable cost of eligible conversions, alterations or improvements provided in paragraphs one through eight and paragraph ten of subdivision b of this section provided that the abatement in taxes in any consecutive twelve-month period shall in no event exceed the amount of taxes payable in such twelve-month period; and provided further that alterations or improvements pursuant to paragraph four of subdivision b of this section shall only receive the benefits of this section if construction commenced after January first, nineteen hundred seventy-eight and that in no event shall the aggregate abatement exceed ninety per centum of the reasonable cost of conversions, alterations or improvements provided in paragraphs one, three, four, six, seven, and ten of subdivision b of this section, or exceed fifty per centum of the reasonable cost of conversions pursuant to paragraph one of subdivision b of this section if construction commenced after January first, nineteen hundred eighty-two\* and if such conversions are situated on any tax lots bordering on, or south of, ninety-sixth street in the county of New York to the extent such abatement is not otherwise restricted herein, or exceed fifty per centum of the reasonable cost of conversions pursuant to paragraphs two and eight of subdivision b of this section, or exceed one hundred per centum of the reasonable cost of alterations or improvements pursuant to paragraph five of subdivision b of this section provided that where alterations or improvements pursuant to paragraphs four and six of subdivision b of this section are done in conjunction with a conversion pursuant to paragraph two of subdivision b of this section, the aggregate abatement shall not exceed fifty per centum of the reasonable cost. Notwithstanding the foregoing, the taxes upon real property, including the land may be abated for a period of not more than twenty years at eight and one-third per centum of the reasonable cost of conversion pursuant to paragraph two of subdivision b of this section where construction actually commenced in good faith prior to July first, nineteen hundred eighty pursuant to an alteration permit issued by the department of buildings prior to July first, nineteen hundred eighty provided that the aggregate abatement shall not exceed ninety per centum of the reasonable cost thereof and provided further that in no event shall the abatement in taxes in any twelve-month period exceed the amount of taxes payable in such twelve-month period. In no event, however, shall the aggregate abatement for conversions, alterations or improvements pursuant to subdivision b of this section exceed such dollar limit per existing class A dwelling unit or additional unit created by conversion to a class A multiple dwelling as may be established pursuant to rules and regulations promulgated by the department of housing preservation and development



pursuant to subdivision m of this section. Only those items of work set forth in the itemized cost breakdown schedule contained in rules and regulations promulgated by the department of housing preservation and development pursuant to subdivision m of this section shall be eligible for tax abatement. Such abatement shall commence on the later of July first, nineteen hundred seventy-eight or the first day of the first tax quarter following the completion of such construction and the filing for benefits as provided in subdivision h of this section except that such period of abatement may commence on the later of the first day of the first tax quarter following commencement of any conversion, alteration or improvement or (i) July first, nineteen hundred seventy-six, if aided by a loan pursuant to article eight of the private housing finance law and completed after December thirty-first, nineteen hundred seventy-five; or (ii) July first, nineteen hundred seventy-seven, if aided by a loan pursuant to article fifteen of the private housing finance law; or (iii) July first, nineteen hundred eighty, if aided by a loan pursuant to article eight-A of the private housing finance law; or (iv) July first, nineteen hundred eighty, if aided by a loan pursuant to section three hundred twelve of the housing act of nineteen hundred sixty-four (42 U.S.C. § 1452b); or (v) July first, nineteen hundred ninety-two, if started after such date and aided by a loan or grant under article eleven, twelve, or twenty-two of the private housing finance law, section six hundred ninety-six-a or section ninety-nine-h of the general municipal law, or the Cranston-Gonzalez national affordable housing act (42 U.S.C. § 12701, et seq.); or (vi) July first, nineteen hundred eighty-eight, if started after such date by or on behalf of a company not qualified under any of the above provisions, which is a not-for-profit corporation qualified pursuant to section 501(c)(3) of the internal revenue code and which has entered into a regulatory agreement with the local housing agency requiring operation of the property as housing for low and moderate income persons and families.

(2) In the case of alterations or improvements pursuant to paragraph five of subdivision b of this section which are carried out with the substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality or any not-for-profit philanthropic organization one of whose primary purposes is providing low or moderate income housing or financed with mortgage insurance by the New York city residential mortgage insurance corporation or the state of New York mortgage agency or pursuant to a program established by the federal housing administration for rehabilitation of existing multiple dwellings in a neighborhood strategy area as defined by the United States department of housing and urban development, the abatement of taxes on such property, including the land, shall not exceed the lesser of the actual cost of the alterations or improvements or one hundred fifty per centum of the certified reasonable cost of the alterations or improvements, as determined under regulations of the department of housing preservation and development, and the annual abatement of taxes shall not exceed twelve and one-half per centum of such certified reasonable cost, provided that such abatement shall not be effective for more than twenty years and the annual abatement of taxes in any consecutive twelve-month period shall in no event exceed the amount of taxes payable in such twelve-month period.

(3) In the case of alterations or improvements carried out with the substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality or any not-for-profit philanthropic organization one of whose primary purposes is providing low or moderate income housing, or financed with mortgage insurance by the New York city residential mortgage insurance corporation or the state of New York mortgage agency or pursuant to a program established by the federal housing administration for rehabilitation of existing multiple dwellings in a neighborhood strategy area as defined by the United States department of housing and urban development where such alterations or improvements are done on property located in census tracts in which seventy-five percent or more of the population live in households which earn fifty percent or less of the median household income of the city, the abatement of taxes on such property, including the land, shall not exceed the lesser of the actual cost of the alterations or improvements or one hundred fifty per centum of the certified reasonable cost of the alterations or improvements, as determined under regulations of the department of housing preservation and development, and the annual abatement of taxes shall not exceed twelve and one-half per centum of such certified reasonable cost, provided that such abatement shall not be effective for more than twenty years and the annual abatement of taxes in any consecutive twelve-month period shall in no event exceed the amount of taxes payable in such twelve month period.

(4) In the case of alterations, improvements or conversions pursuant to paragraph nine of subdivision b of this section, the abatement of taxes on such property, including the land, shall not exceed the lesser of the actual cost of the alterations or improvements or one hundred fifty per centum of the certified reasonable cost of the alterations or improvements, as determined under regulations of the department of housing preservation and development, and the annual abatement of taxes shall not exceed twelve and one-half per centum of such certified reasonable cost, provided that such abatement shall not be effective for more than twenty years and the annual abatement of taxes in any consecutive twelve-month period shall in no event exceed the amount of taxes payable in such twelve-month period.

d. The benefits of this section shall apply:

(1) to any multiple dwelling which is altered, improved or increased in valuation with aid of a loan provided by the city of New York, the New York city housing development corporation or the United States department of housing and urban development for the elimination of conditions dangerous to human life or detrimental to health, including nuisances as defined in section three hundred nine of the multiple dwelling law, or other rehabilitation or improvement whether or not all of the units thereof were in existence prior to rehabilitation pursuant to the provisions of: (i) article two, eight or eight-A of the private housing finance law provided that such dwelling is made available solely to persons or families of low income as defined in said articles, (ii) article twelve of the private housing finance law, (iii) article fifteen of the private housing finance law or (iv) any federal law where the multiple dwelling is supervised or regulated by the United States department of housing and urban development.

(2) except as hereinafter provided, to any building or structure which is converted to a class A multiple dwelling or to any existing dwelling which is substantially rehabilitated, and further provided that the rents subsequent to conversion or substantial rehabilitation shall not exceed such amount as may be fixed: (i) by the United States department of housing and urban development, (ii) pursuant to the private housing finance law of the state of New York, or (iii) pursuant to chapter three or chapter four of title twenty-six of the code, provided that the initial legal regulated rent for the dwelling units shall be the rent charged and paid by the initial tenant and registered with the New York state division of housing and community renewal. Buildings or structures which are converted to class A multiple dwellings and existing dwellings which are substantially rehabilitated shall contain bedrooms in a number equal to at least fifty percent of the apartments created where an alteration permit has been issued by the department of buildings prior to April first, nineteen hundred eighty and seventy-five percent of the apartments created where an alteration permit has been issued by the department of buildings on or after April first, nineteen hundred eighty provided, however, that if a building or structure is converted from a non-residential use to a class A multiple dwelling and the units therein contain an average floor area of one thousand square feet, such requirement as to the number of bedrooms shall not be applicable and if an existing dwelling is substantially rehabilitated, the seventy-five percent bedroom requirement shall be reduced to the extent its application would necessitate a reduction in the number of units which are contained in the existing dwelling prior to commencement of substantial rehabilitation.

(3) to any multiple dwelling, building or structure otherwise eligible for any of the benefits of this section which:

(i) is operated exclusively for the benefit of persons or families who are or will be entitled to occupancy by reason of ownership of stock or membership in the corporate owner, or for the benefit of such persons or families and other persons or families entitled to occupancy under applicable provisions of law without ownership of stock or membership in the corporate owner, or

(ii) is owned as a condominium and is occupied as the residence or home of three or more families living independently of each other; provided, however, that, in addition to all other conditions of eligibility for the benefits of this section, except for multiple dwellings in which units have been newly created by substantial rehabilitation of vacant buildings or conversions of non-residential buildings, the availability of benefits under this section for such multiple dwellings, buildings or structures shall be conditioned on the following:

(a) alterations or improvements to at least one building-wide system are part of the application for benefits, and

(b) (i) the assessed valuation of such multiple dwelling, building, or structure, including land, shall not exceed an average of thirty thousand dollars per dwelling unit at the time of the commencement of the alterations or improvements, and

(ii) during the three years immediately preceding the commencement of the alterations or improvements the average per room sale price of the dwelling units or the stock allocated to such dwelling units shall have been no greater than thirty-five percent of the maximum mortgage amount for a single family home eligible for purchase by the Federal National Mortgage Association; provided that if less than ten percent of the dwelling units or an amount of stock less than the amount allocable to ten percent of such dwelling units was not transferred during such preceding three year period, eligibility for benefits shall be conditioned upon the multiple dwelling, building, or structure having an assessed valuation per dwelling unit of no more than

twenty-five thousand dollars at the time of the commencement of the alterations or improvements. Provided, further, that such benefits shall be available only for alterations or improvements commenced on or after June first, nineteen hundred eighty-six. Notwithstanding the foregoing, the benefits of this section shall be available for any alterations or improvements commenced after August seventh, nineteen hundred ninety-two for such multiple dwellings, buildings or structures and shall be conditioned on the following:

(1) the application for benefits may include any item of work designated in the rules adopted by the department of housing preservation and development as a major capital improvement or asbestos abatement to the extent such asbestos abatement is required by federal, state and local law; and

(2) (i) the assessed valuation of such multiple dwelling, building or structure, including land, shall not exceed an average of forty thousand dollars per dwelling unit at the time of the commencement of the alterations or improvements; and

(ii) the average per room sale price of the dwelling units or the stock allocated to such dwelling units shall have been no greater than thirty-five percent of the maximum mortgage amount for a single family home eligible for purchase by the Federal National Mortgage Association during the three years immediately preceding the commencement of the alterations or improvements; provided that if less than ten percent of the dwelling units or an amount of stock less than the amount allocable to ten percent of such dwelling units was not transferred during such preceding three year period, eligibility for benefits shall be conditioned upon the multiple dwelling, building, or structure having an assessed valuation per dwelling unit of no more than forty thousand dollars at the time of the commencement of the alteration or improvement. Notwithstanding the foregoing, benefits shall also be available under this section for work completed in any such multiple dwelling, building or structure within the first three years of its conversion to cooperative or condominium ownership, as evidenced by the date on which the first closing in a condominium to a bona fide purchaser occurs or in the case of a cooperative, the date on which the shares allocable to a unit are conveyed to a bona fide purchaser, provided, however, that the availability of such benefits for conversions, alterations or improvements commenced prior to June first, nineteen hundred eighty-six, except with respect to governmentally assisted projects as defined in regulations issued by the department of housing preservation and development, shall be conditioned upon the completion of such conversions, alterations or improvements within three years after acceptance for filing of the prospectus to establish such cooperative or condominium entity by the attorney general of the state of New York. The maximum amount of tax abatement which may be received in any tax period under this section by any such multiple dwelling, building or structure for any alterations and improvements commenced three or more years after its initial conversion to cooperative or condominium ownership shall be limited to an amount not in excess of two thousand five hundred dollars per dwelling unit of the certified reasonable cost of the alterations or improvements as determined under regulations of the department of housing preservation and development.

(3-a) Notwithstanding any contrary provision of paragraph three of this subdivision, the availability of any benefits under this section to any multiple dwelling, building or structure owned and operated by a limited-profit housing company established pursuant to article two of the private housing finance law shall not be conditioned upon the assessed valuation of such multiple dwelling, building or structure, including land, as calculated as an average dollar amount per dwelling unit, at the time of the commencement of the alterations or improvements; provided, however, that such limited-profit housing company (i) is organized and operating as a mutual company, (ii) continues to be organized and operating as a mutual company and to own and operate the multiple dwelling, building or structure receiving such benefits, and (iii) has entered into a binding and irrevocable agreement with the commissioner of housing of the state of New York, the supervising agency, the New York city housing development corporation, or the New York state housing finance agency prohibiting the dissolution or reconstitution of such limited-profit housing company pursuant to section thirty-five of the private housing finance law for not less than fifteen years from the commencement of such benefits. For the purposes of this paragraph, the terms "mutual company" and "supervising agency" shall have the same meanings as set forth in section two of the private housing finance law.

(3-b) Notwithstanding any contrary provision of paragraph three of this subdivision, the availability of any benefits under this section to any multiple dwelling, building or structure owned and operated by a redevelopment company established pursuant to article five of the public housing finance law shall not be conditioned upon the assessed valuation of such multiple dwelling, building or structure, including land, as calculated as an average dollar amount per dwelling unit, at the time of the commencement of the alterations or improvements; provided, however, that such redevelopment company (i) is organized and operating as a mutual redevelopment company, (ii) continues to be organized and operating as a mutual redevelopment company and to own and operate the multiple dwelling, building or structure receiving such benefits, and (iii) has entered into a binding and irrevocable agreement with the commissioner of housing and community renewal of the state of New York, the supervising agency, the New York city housing development corporation, or the New York state housing finance agency prohibiting the dissolution or reconstitution of such redevelopment company pursuant to section one hundred twenty-three of the private housing finance law until the earlier to occur of (i) fifteen years from the commencement of such benefits, or (ii) the expiration of any tax exemption granted to such redevelopment company pursuant to section one hundred twenty-five of the private housing finance law. For the purposes of this paragraph, the terms "mutual" and "supervising agency" shall have the same meaning as set forth in section one hundred two of the private housing finance law.

(4) provided that, in the case of any building or structure:

(i) in which conversion, alteration or improvement commences on or after January first, nineteen hundred eighty-two, and

(ii) which is located in the county of New York within an area designated herein as a minimum tax zone, the benefits of this section shall not be applied to abate or reduce the taxes upon the land portion of such real property, which shall continue to be taxed based upon the assessed valuation of the land and the applicable tax rate at the time such taxes are levied; provided, however, that the foregoing limitation with respect to abatement of taxes shall not apply:

(A) to any multiple dwelling which is eligible for benefits based upon moderate rehabilitation pursuant to paragraph five of subdivision b of this section, or

(B) to any multiple dwelling which is governmentally assisted as such term is defined in regulations to be promulgated by the department of housing preservation and development pursuant to subdivision m of this section.

(5) provided that in the case of any building or structure:

(i) in which conversion, alteration or improvement commences on or after January first, nineteen hundred eighty-two, and

(ii) which is located in the county of New York within an area designated herein as a tax abatement exclusion zone, the benefits of this section shall not be applied to abate or reduce the taxes upon such real property, which shall continue to be taxed based upon the assessed valuation of the land and the improvements and the applicable tax rate at the time such taxes are levied; provided, however, that the foregoing limitation shall not deprive such real property of any benefits of exemption from taxation of an increase in assessed valuation to which it is entitled pursuant to this section; provided, however, that the foregoing limitation with respect to abatement of taxes shall not apply:

(A) to any alteration or improvement designated as a major capital improvement, by the regulations promulgated by the department of housing preservation and development pursuant to subdivision m of this section, provided that the maximum amount of tax abatement which may be received in any tax period under this section by any such multiple dwelling, building or structure for any alterations and improvements shall be limited to an amount not in excess of twenty-five hundred dollars per dwelling unit of the certified reasonable cost of the alterations and improvements as determined under regulations of the department of housing preservation and development, or

(B) to any multiple dwelling which is governmentally assisted as such term is defined by said regulations.

(6) For purposes of this subdivision, the minimum tax zone in the county of New York shall be as follows: all tax lots now existing or hereafter created within the following designated area or adjacent to either side of any street forming the boundary of such designated area, which area is bounded and described as follows: BEGINNING at Central Park West and 86th Street; thence easterly along 86th Street to the East River; thence southerly along

the easterly boundary of New York county to 23rd Street; thence westerly along 23rd Street to Third Avenue; thence southerly along Third Avenue to 14th Street; thence westerly along 14th Street to Broadway; thence southerly along Broadway to Houston Street; thence westerly along Houston Street to West Street; thence northerly along West Street to 14th Street; thence easterly along 14th Street to 9th Avenue; thence northerly along Ninth Avenue to 57th Street; thence westerly along 57th Street to the Hudson River; thence northerly along the westerly boundary of New York county to 72nd Street; thence easterly along 72nd Street to Central Park West; thence northerly along Central Park West to 86th Street and Central Park West, which is the place of beginning.

(7) For purposes of this subdivision, the tax abatement exclusion zone in the county of New York shall be as follows: all tax lots within the following designated area or adjacent to either side of any street forming the boundary of such designated area or adjacent to either side of any street designated as included in such area, which area is bounded and described as follows: BEGINNING at the intersection of 96th Street and Central Park West; thence easterly to Park Avenue; thence southerly along Park Avenue to the intersection of Park Avenue and 72nd Street; thence easterly along 72nd Street to York Avenue; thence northerly along York Avenue to the Franklin Delano Roosevelt Drive; thence north-westerly along the Franklin Delano Roosevelt Drive to as far as 96th Street; thence easterly to the easterly border of New York county; thence southerly along such border to 34th Street; thence westerly along 34th Street to 8th Avenue; thence northerly, along 8th Avenue and Central Park West as far as 96th Street, which is the place of beginning. Additionally, the following North/South and East/West thoroughfares shall be included in the tax abatement exclusion zone: 96th Street between Central Park West and the East River; 86th Street between Central Park West and the East River; 79th Street between West End Avenue and the East River; 72nd Street between West End Avenue and the East River; West End Avenue from 72nd Street to 86th Street; and Riverside Drive from 72nd Street to 96th Street.

(8) *Limitation on benefits.*

(a) The provisions of this paragraph shall apply to all conversions, alterations and improvements except the following:

(i) alterations or improvements under paragraphs four, six and seven of subdivision b of this section, where carried out:

(A) with the substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality, or any not-for-profit philanthropic organization one of whose primary purposes is providing low or moderate incoming housing; or

(B) with mortgage insurance by the New York city residential mortgage insurance corporation or the state of New York mortgage agency; or

(C) in the areas bounded and described as follows:

AREAS IN THE COUNTY OF BRONX:

MOTT HAVEN—The area bounded by East 159th Street; Third Avenue; East 161st Street; Prospect Avenue; East 149th Street; Jackson Avenue; Bruckner Expressway; Major Deegan Expressway; Morris Avenue; East 149th Street and Park Avenue.

ALDUS GREEN—The area bounded by East 169th Street; East 167th Street; Westchester Avenue; Sheridan Expressway; Longfellow Avenue; Randall Avenue; Tiffany Street; Longwood Avenue; Bruckner Expressway; East 149th Street; and, Prospect Avenue.

MORRISANIA—The area bounded by Cross Bronx Expressway; Park Avenue; East 174th Street; Washington Avenue; Cross Bronx Expressway; Arthur Avenue; Crotona Park North; Waterloo Place; East 175th Street; Southern Boulevard; Cross Bronx Expressway; Sheridan Expressway; East 167th Street; East 169th Street; Prospect Avenue; East 161st Street; Third Avenue; East 159th Street; Park Avenue; and, Webster Avenue.

HIGHBRIDGE-CONCOURSE—The area bounded by Washington Bridge-Cross Bronx Expressway; Webster Avenue; Park Avenue; East 149th Street; and, the Harlem River.

WEST TREMONT—The area bounded by West Fordham Road; East Fordham Road; Webster Avenue; Cross Bronx Expressway; George Washington Bridge; and, the Harlem River.

BELMONT-BRONX PARK SOUTH—The area bounded by Southern Boulevard; Bronx Park South; Boston Road; East 180th Street; Bronx River Parkway; Cross Bronx Expressway; Crotona Parkway; East 175th Street; Waterloo Place; Crotona Park North; Arthur Avenue; Cross Bronx Expressway; Washington Avenue; East 174th Street; Park Avenue; Cross Bronx Expressway; and, Webster Avenue.

KINGSBRIDGE—The area bounded by Van Cortlandt Park South; West Gun Hill Road; Jerome Avenue; Bainbridge Avenue; East 211th Street and its prolongation; Conrail right of way; Bedford Park Boulevard; Webster Avenue; East Fordham Road; West Fordham Road; the Harlem River; Marble Hill Avenue; West 230th Street; Riverdale Avenue; Greystone Avenue; Waldo Avenue; Manhattan College Parkway; and, Broadway.

SOUND VIEW—The area bounded by the Cross Bronx Expressway; Bronx River Parkway; East Tremont Avenue; White Plains Road; Randall Avenue; Olmstead Avenue; Lacombe Avenue; Westchester Creek; East River; Bronx River; Westchester Avenue; and, Sheridan Expressway.

PELHAM PARKWAY—The area bounded by Adee Avenue; Mathews Avenue; Williamsbridge Road; Pelham Parkway South; Yates Avenue; Lydig Avenue; Williamsbridge Road; Neil Avenue; Bogart Avenue; East Tremont Avenue; Bronx River Parkway; and, Bronx Park East.

AREAS IN THE COUNTY OF KINGS:

WILLIAMSBURG—The area bounded by Metropolitan Avenue; Union Avenue; Conselyea Street; Wood Point Road; Frost Street; Morgan Avenue; Meserole Street; Bushwick Avenue; Flushing Avenue; Union Avenue; Division Avenue; and, the East River.

BEDFORD-STUYVESANT—The area bounded by Myrtle Avenue; Broadway; Ralph Avenue; Atlantic Avenue; and, Nostrand Avenue.

BUSHWICK—The area bounded by Flushing Avenue; Cypress Avenue; Menahan Street; St. Nicholas Avenue; Gates Avenue; Wycoff Avenue; Eldert Street; Irving Avenue; Chauncey Street; Central Avenue; property line of the Cemetery of the Evergreens; Conway Street; and, Broadway.

EAST-NEW YORK—The area bounded by Jamaica Avenue; Elderts Lane; Atlantic Avenue; Fountain Avenue; New Lots Avenue; and Sheffield Avenue.

SOUTH BROOKLYN (A)—The area bounded by The Buttermilk Channel; Congress Street; Hicks Street; Hamilton-Gowanus Parkway; the Gowanus Canal; and, the Gowanus Bay.

SOUTH BROOKLYN (B)—The area bounded by Fourth Avenue; Pacific Street; Flatbush Avenue; Sixth Avenue; and, 15th Street.

SUNSET PARK—The area bounded by the Upper New York Bay; the Gowanus Bay; 15th Street; Prospect Park S.W.; Coney Island Avenue; Caton Avenue; Fort Hamilton Parkway; 37th Street; Eighth Avenue; Long Island Railroad right of way; Gowanus Expressway; 64th Street; Shore Parkway; and, the Long Island Railroad right of way.

CROWN HEIGHTS—The area bounded by Pacific Street; Vanderbilt Avenue; Atlantic Avenue; Ralph Avenue; East New York Avenue; Utica Avenue; Winthrop Street; Flatbush Avenue; Parkside Avenue; Ocean Avenue; Empire Boulevard; Washington Avenue; Eastern Parkway; Grand Army Plaza; and, Flatbush Avenue.

CONEY ISLAND—The area bounded by the Coney Island Creek; Stillwell Avenue; the Boardwalk West; and, West 37th Street.

FLATBUSH—The area bounded by Parkside Avenue; Flatbush Avenue; Winthrop Street; New York Avenue; Clarendon Road; East 31st Street; Newkirk Avenue; Nostrand Avenue; Foster Avenue; New York Avenue; Avenue H; Flatbush Avenue; Avenue K; and, Coney Island Avenue.

EAST FLATBUSH—The area bounded by Clarkson Avenue; Utica Avenue; East New York Avenue; East 98th Street; Church Avenue; Ralph Avenue; Clarendon Road; and, New York Avenue.

BROWNSVILLE—The area bounded by Broadway; Rockaway Avenue; Atlantic Avenue; East New York Avenue; Christopher Avenue; Glenmore Avenue; Powell Street; Sutter Avenue; Van Sinderen Avenue; Dumont Avenue; Junius Street; Livonia Avenue; Stone Avenue; Linden Boulevard; Rockaway Avenue; Hegeman Avenue; Hopkinson Avenue; Riverdale Avenue; East 98th Street; East New York Avenue; Ralph Avenue; Atlantic Avenue; and, Saratoga Avenue.

AREAS IN THE COUNTY OF NEW YORK:

LOWER EAST SIDE—The area bounded by East 14th Street; the East River; Delancey Street; Chrystie Street; East Houston Street; and, Avenue A.

MANHATTAN VALLEY—The area bounded by Cathedral Parkway (West 110th Street); Central Park West; West 100th Street; and, Broadway.

EAST HARLEM—The area bounded by East 142nd Street; the Harlem River; East 96th Street; and, Fifth Avenue.

CENTRAL HARLEM—The area bounded by West 145th Street; the Harlem River; Fifth Avenue; Cathedral Parkway (West 110th Street); Morningside Avenue; West 123rd Street; St. Nicholas Avenue; West 141st Street; and, Bradhurst Avenue.

HAMILTON HEIGHTS—The area bounded by West 155th Street; Bradhurst Avenue; West 141st Street; Convent Avenue; West 140th Street; Amsterdam Avenue; West 133rd Street; and, Riverside Drive.

WASHINGTON HEIGHTS—The area bounded by the Harlem River; Teunissen Place; West 230th Street; Marble Hill Lane; the Harlem River; West 155th Street; and, the Hudson River.

AREAS IN THE COUNTY OF QUEENS:

HALLETS POINTS—The area bounded by the East River-East Channel, Halletts Cove and Pot Cove; Hoyt Avenue South; 21st Street; 31st Avenue; Vernon Boulevard; and, 35th Avenue.

JACKSON HEIGHTS-CORONA-EAST ELMHURST—The area bounded by Grand Central Parkway; Long Island Railroad right of way; 110th Street; Corona Avenue; Long Island Expressway; Junction Boulevard; Roosevelt Avenue; and, Brooklyn-Queens Expressway East.

RIDGEWOOD—The area bounded by Grand Avenue; Rust Street; 59th Drive; 60th Street; Bleecker Street; Forest Avenue; Myrtle Avenue; the Long Island Railroad right of way; and, Queens-Brooklyn boundary line.

JAMAICA SOUTH—The area bounded by the Long Island Railroad right of way; New York Boulevard; Southern Parkway (Sunrise Highway) and, Van Wyck Expressway.

FAR ROCKAWAY—The area bounded by the Jamaica Bay-Mott Basin; Queens-Nassau boundary line; Far Rockway\* Beach; Beach 32nd Street; and, Norton Drive.

AREAS IN THE COUNTY OF RICHMOND:

PORT RICHMOND—The area bounded by the Kill Van Kull; Jewett Avenue and its prolongation; Forest Avenue; and, the Willow Brook Expressway.

NEW BRIGHTON—The area bounded by the Kill Van Kull; Westervelt Avenue; Brook Street; Castleton Avenue; and, North Randall Avenue and its prolongation.

STAPLETON—The area bounded by Victory Boulevard; the Upper New York Bay; Vanderbilt Avenue; Van Duzer Street; Cebra Avenue; and, St. Pauls Avenue.

FOX HILLS—The area bounded by Vanderbilt Avenue; the Upper New York Bay; the Staten Island Rapid Transit Railway right of way; and, the Staten Island Expressway.

(D) pursuant to a program established by the federal housing administration, federal national mortgage association, federal home loan mortgage corporation or government national mortgage association for the rehabilitation of existing multiple dwellings for persons of low or moderate income, or a program of mortgage insurance for the rehabilitation of existing multiple dwellings pursuant to section two hundred twenty-three-f of the national housing act as amended, or a program of mortgage insurance established by the federal housing administration for the rehabilitation of existing multiple dwellings for persons of low or moderate income; provided that properties receiving benefits under such programs are located in a neighborhood strategy area, as defined, by the United States department of housing and urban development, or in one of the areas listed in subparagraph (C) of this paragraph.

(ii) alterations or improvements under paragraph five of subdivision b of this section; and

(iii) conversion of residential units qualified for the protection of article seven-C of the multiple dwelling law under paragraph eight of subdivision b of this section.

(b) *Abatement limitations.*

(i) The amount of abatement under subdivision c of this section shall not exceed the certified reasonable cost of the conversion, alteration or improvement, as determined under regulations of the department of housing preservation and development, provided that the amount of certified reasonable cost eligible for abatement under this section shall not exceed fifteen thousand dollars for a dwelling unit of three and one-half rooms, as determined under the applicable zoning resolution, and a comparable amount for dwelling units of other sizes, determined under regulations of the department of housing preservation and development, and further provided that the amount of certified reasonable cost eligible for abatement under this section may exceed fifteen thousand dollars or such comparable amount per dwelling unit, but not more than twenty-five percent above such amount, upon application of the property owner and a determination by the department of housing preservation and development that:

(A) in the case of a conversion under paragraph one, two or three of subdivision b of this section, the increased cost is necessary to comply with applicable law; or

(B) in the case of an alteration or improvement under paragraph seven of subdivision b of this section, the increased cost is necessary to eliminate the unhealthy or dangerous conditions or replace the inadequate and obsolete facilities in a satisfactory manner, or

(C) in the case of an alteration or improvement under paragraph six of subdivision b of this section, the increased cost is necessary to conserve energy in a satisfactory manner; or

(D) in the case of an alteration or improvement under paragraph four of subdivision b of this section, the increased cost, to the extent such cost is not offset by any and all tax credits received as a result of the alteration or improvement, is necessary to comply with any provision of law regulating historic or landmark buildings or structures.

(ii) Notwithstanding any other provisions of this subparagraph, and in addition to all other conditions of eligibility for the benefits of this section, the availability of abatements pursuant to subdivision c of this section for any multiple dwellings, buildings or structures not owned as a condominium or cooperative, except for multiple dwellings in which units have been newly created by substantial rehabilitation of vacant buildings or conversions of non-residential buildings, shall be conditioned on the assessed valuation of such multiple dwelling, building or structure, including land, not exceeding an average of thirty thousand dollars per dwelling unit at the time of commencement of the alterations or improvements, provided, however, that such average shall not exceed \$40,000 per dwelling unit at the time of commencement of the alteration or improvement for alterations or improvements commenced after the effective date of this local law, which added this amendment.

(c) *Exemption limitations.*

(i) The increase in assessed valuation of the real property resulting from the conversion, alteration or improvement under subdivision b of this section, shall be exempt from taxation as provided in this section, only to the extent provided in this subparagraph, provided that this subparagraph shall not apply to any conversions, alterations or improvements commenced on or after June first, nineteen hundred eighty-six, unless such conversions, alterations or improvements are carried out in buildings or structures located in the borough of Manhattan south of or adjacent to the south side of one hundred tenth street. The amount of the increased assessed valuation that is exempt from taxation shall depend on the amount of the total assessed value per dwelling unit calculated by dividing the amount of the total assessed valuation of the property, as determined under the real property tax law, by the number of dwelling units in the building after completion of the conversion, alteration or improvement. The amount of increased assessed valuation that will be exempt from taxation for buildings with total assessed valuation per dwelling unit of less than thirty-eight thousand dollars shall be calculated pursuant to the following formula:

(A) any portion of total assessed valuation of the property attributable to the first eighteen thousand dollars of total assessed valuation per dwelling unit, to the extent it represents increased assessed valuation, shall be one hundred percent exempt;

(B) any portion of total assessed valuation attributable to the next four thousand dollars of total assessed valuation per dwelling unit, to the extent it represents increased assessed valuation, shall be seventy-five percent exempt;

(C) any portion of total assessed valuation attributable to the next four thousand dollars of total assessed valuation per dwelling unit, to the extent it represents increased assessed valuation, shall be fifty percent exempt;

(D) any portion of total assessed valuation attributable to the next four thousand dollars of total assessed valuation per dwelling unit, to the extent it represents increased assessed valuation, shall be twenty-five percent exempt;

(E) any portion of total assessed valuation attributable to the next eight thousand dollars of total assessed valuation per dwelling unit, to the extent it represents increased assessed valuation per dwelling unit, shall be fully taxable. Property with a total assessed valuation per dwelling unit of thirty-eight thousand dollars or more shall not be eligible for a tax exemption under this section.

(ii) In calculating the amount of increased assessed valuation that will be exempt from taxation pursuant to the formula in clause (i) of this subparagraph, the full amount of total assessed valuation that does not represent increased assessed valuation shall be applied in such formula prior to the inclusion of any amount of increased assessed valuation.

(iii) Where the real property is occupied in part for residential purposes and in part for non-residential purposes, the assessed valuation of the property shall be appropriately allocated between the residential and non-residential portions. In computing the total assessed valuation per dwelling unit under this subparagraph, only the amount of valuation so allocated to the residential portion shall be considered.

(iv) Commencing with the assessment roll for the year nineteen hundred eighty-four, where there has been a change in the level of assessment from the assessment roll of the prior year of properties receiving exemptions under this section, the department of finance may petition the state board to certify the percentage of such change for the purposes of this section. In such petition, the department of finance shall submit such information as the state board shall require in order to certify the percentage of such change. The state board may also make such a certification on its own motion. Upon receipt of such certification from the state board, the department of housing preservation and development may modify the dollar values of total assessed valuation per dwelling unit in clause (i) of this subparagraph to reflect the percentage change in the level of assessment as shown in such certification. As used in this subparagraph, the term "change in the level of assessment" means the net increase or decrease in the assessed valuation of properties in the assessing unit that received exemptions under this section in the current year as compared to those that received exemptions under this section in the prior year as a result of assessing such properties at a higher or lower ratio of full value.

(v) (A) Notwithstanding the provisions of clause (i) of this subparagraph, the department of housing preservation and development may reduce or remove the limitations on the exemption from taxation provided in such clause with respect to a particular property undergoing alteration or improvement, upon application of the property owner and a determination by such department that the increased benefit will increase the number of dwelling units that will be affordable to persons of low and moderate income, and the increased benefit is necessary to make economically viable units or improvement in the quality of dwelling units that will be affordable to persons of low or moderate income.

(B) As used in this subparagraph, the term "persons of low or moderate income" shall mean persons who would qualify for housing subsidies pursuant to section two hundred thirty-five of the national housing act, as amended, at one hundred thirty-five percent of the income limitations provided therein.

(C) Upon receiving an application under this subparagraph in proper form, the department of housing preservation and development shall immediately submit it to the community board for the area in which the project is located, which may, within forty-five days of receiving it and after a public hearing, make recommendations to the department as to the application. The department shall act on the application within sixty days of receiving it from the property owner in proper form, but not before expiration of the time for the community board to make its recommendations, unless the board has acted sooner.

(d) The department of housing preservation and development may set forth preliminarily the terms of a determination under subparagraph (b) or (c) of this paragraph prior to the commencement of the conversion, alteration or improvement. Any such determination shall take effect after completion of the work in accordance with the terms of the application made by the property owner.

(e) Any determination of the department of housing preservation and development to increase an abatement under subparagraph (b) of this paragraph, or to reduce or remove the exemption limitations under subparagraph (c) of this paragraph shall state the basis for the determination and the data on which the determination was based. Such determination shall be published in the City Record for five consecutive days after the determination is rendered.

d-1. (1) A group of multiple dwellings which was developed as a planned community and which is owned as two separate condominiums containing a total of ten thousand or more dwelling units shall be eligible for tax exemption and abatement as provided in this subdivision.

(2) any increase in assessed valuation resulting from alterations or improvements financed with substantial governmental assistance to one or more multiple dwellings in a planned community described in paragraph one of this subdivision shall be exempt from taxation for local purposes. Such

exemption shall be equal to the increase in the valuation which is subject to exemption under this paragraph for thirty years. After such period of time, the amount of such exempted assessed value shall be reduced by twenty percent in each succeeding year until the assessed value of the alterations or improvements is fully taxable. Such exemption may commence at the beginning of any tax quarter subsequent to the start of such alterations or improvements. In no event shall such alterations or improvements directly or indirectly result in an equalization increase in the assessed valuation of any multiple dwelling forming part of the planned community where such alterations or improvements are performed.

(3) the taxes on a planned community described in paragraph one of this subdivision, including the land, may be abated by an amount not to exceed the greater of (i) one hundred fifty per centum of the certified reasonable cost of the alterations or improvements, as determined under the rules of the department of housing preservation and development, and (ii) the construction cost of the alterations or improvements identified in such rules. Such abatement shall not be effective for more than twenty years and the annual abatement of taxes in any consecutive twelve-month period shall not be greater than ten per centum of the total abatement granted and shall not exceed the amount of taxes payable in such consecutive twelve-month period. Such abatement shall begin no sooner than the first quarterly tax bill immediately following the completion of such alterations or improvements. The limitations set forth in the second paragraph of paragraph three of subdivision d of this section for multiple dwellings, buildings and structures owned as condominiums shall be inapplicable to benefits granted pursuant to this subdivision. Abatement benefits granted pursuant to this subdivision shall be apportioned among all of the condominium tax lots within the condominium in which the alterations or improvements are made, although such alterations or improvements may have been made to one or fewer than all of the multiple dwellings therein.

(4) in the event that multiple alterations or improvements are undertaken in a planned community described in paragraph one of this subdivision and separate applications for benefits therefor are made, all requirements concerning physical condition of and compliance with law by the multiple dwellings in such planned community shall apply only upon completion of all such alterations or improvements, provided that all such alterations or improvements are completed within six years.

(5) except as provided in this subdivision, all of the requirements imposed by this section on projects described in subdivision b of this section shall be applicable to alterations or improvements granted benefits pursuant to this subdivision.

(6) this subdivision shall be applicable only to alterations or improvements completed prior to December thirty-first, two thousand five.

(7) Alterations and improvements receiving tax benefits under this subdivision shall not be used as the basis of an application for a major capital improvement rent increase under state laws governing rent control and rent stabilization, provided, however, that such alterations and improvements may be eligible for a major capital improvement increase in an amount not to exceed the amount of the decrease in rents that occurs as a result of the installation of individual electrical metering for the residential units. Such major capital improvement increase shall be implemented on a per unit basis.

e. Notwithstanding any provision of this section or any other section of the code to the contrary, where such dwelling is in an area where a plan of redevelopment, program of neighborhood improvement, housing maintenance, demonstration rehabilitation or concentrated code enforcement is being carried out, the rents subsequent to conversion, alteration or improvement may exceed the maximum amount allowable pursuant to chapter four of title twenty-six of the code where necessity for the adjustment of such rents is certified by the department of housing preservation and development.

f. Subject to the provisions of subdivision d of this section, the department of housing preservation and development shall determine and certify the reasonable cost of any such conversions, alterations or improvements and eligibility for the benefits of this section and for that purpose may adopt rules and regulations, administer oaths to and take the testimony of any person, including but not limited to the owner of such property, may issue subpoenas requiring the attendance of such persons and the production of such bills, books, papers or other documents as it shall deem necessary, may make preliminary estimates of the maximum reasonable cost of such conversions, alterations or improvements, may establish maximum allowable costs of specified units, fixtures or work in such conversions, alterations or improvements, and may require the submission of plans and specifications of such conversions, alterations or improvements, and may require the submission of plans and specifications of such conversions, alterations or improvements before the start thereof. Applications for certification shall include all bills and other documents showing the cost of construction or such other evidence of such cost as shall be satisfactory to the department of housing preservation and development, including, without limitation, certification of cost by a certified public accountant in accordance with generally accepted accounting principles. Applications for certification for a building eligible for benefits pursuant to paragraph three of subdivision d of this section, for alterations or improvements completed more than three years after its conversion to cooperative or condominium ownership, shall include such documentation of the sale price of dwelling units or stock allocated to such dwelling units as may be required by the department of housing preservation and development, including but not limited to certification of sales price by a certified public accountant. In addition, such applications shall contain the consent of the applicant to allow the department of housing preservation and development access to records, including but not limited to other tax records, as the department may deem appropriate to enforce such conditions of eligibility. Applications for certification filed for conversions, alterations or improvements completed after December thirty-first, two thousand eleven pursuant to paragraphs one through seven and paragraph nine of subdivision b of this section shall be made after completion and within thirty-six months following the start of construction of the conversion, alteration or improvement, except that applications for certification for alterations or improvements undertaken by a housing development fund company organized pursuant to article eleven of the private housing finance law, which are carried out with the substantial assistance of grants, loans or subsidies from any federal, state or local governmental agency or instrumentality or which are carried out in a property transferred from the city of New York shall be made after completion and within seventy-two months following the start of the construction of the alteration or improvement. Provided, however, the department of housing preservation and development is empowered to grant an extension of the period for application for any project carried out with the substantial assistance of loans, grants or subsidies from any federal, state or local governmental agency or instrumentality, if such application is made within seventy-two months from commencement of construction. Applications for certification pursuant to paragraph eight of subdivision b of this section shall be filed within twelve months of the date of completion as provided by such subdivision.

g. To the end that conversions, alterations or improvements in such property shall interfere as little as practicable with the clearance, rehabilitation or rebuilding of sub-standard and insanitary areas and shall be confined to buildings and structures which are structurally sound and comply with applicable provisions of law, eligibility for the benefits of this section shall be restricted to such buildings and structures which the department of housing preservation and development shall certify:

(1) to be structurally sound and to comply with applicable provisions of law, as determined by the department of buildings, which certification shall be evidenced by a certificate describing the property involved; and

(2) if in an area for which a final plan of clearance, replanning, reconstruction, rehabilitation, or redevelopment has been approved pursuant to article fifteen of the general municipal law, or if in an area for which an urban renewal plan or tests, studies or demonstrations have been approved pursuant to article fifteen of the general municipal law, to be improved in conformity with such replanning, reconstruction, rehabilitation, redevelopment, tests, studies, demonstrations or plan; and

(3) if in an area where a program of local neighborhood improvement or housing maintenance is being carried out, to be in conformity with such program.

h. Application forms for the benefits of this section shall be filed with the department of finance within the time periods to be established by rules and regulations promulgated by the department of housing preservation and development pursuant to subdivision m of this section. The department of finance shall certify the amount of taxes to be abated, pursuant to the certification of the department of housing preservation and development as herein provided. No such application shall be accepted unless accompanied by a copy of the certificate of the department of housing preservation and development both as to reasonable cost and as to eligibility as provided in subdivision f of this section.

i. The benefits of this section shall not apply:

(1) except as provided in subdivision d of this section, to any existing dwelling which is not subject to the provisions of the emergency housing rent control law or to the city rent and rehabilitation law or to the city rent stabilization law or to the private housing finance law or to any federal law providing for supervision or regulation by the United States department of housing and urban development;

(2) to any private dwelling, notwithstanding any other provision of this section, unless it is in an area where a plan of redevelopment or program of neighborhood improvement, housing maintenance, demonstration rehabilitation or concentrated code enforcement is being carried out and the department of housing preservation and development finds that the conversion, alteration or improvement is in conformity with such plan of redevelopment, or program of neighborhood improvement, housing maintenance, demonstration rehabilitation or concentrated code enforcement; provided that, notwithstanding the foregoing, for the purposes of this section, a class A multiple dwelling may be deemed to include any garden-type maisonette dwelling project consisting of a series of dwelling units which together and in their aggregate were arranged or designed to provide three or more apartments and are provided as a group collectively with all essential services such as, but not limited to, water supply, house sewers and heat, and which are in existence and operated as a unit under single ownership on the date upon which an application for the benefits of this section is received by the department of housing preservation and development, even though certificates of occupancy were issued for portions thereof as private dwellings;

(3) to any property receiving tax exemption or abatement concurrently for rehabilitation or new construction under any other provision of New York state or New York city law with the exception of any alteration or improvement to property receiving such tax exemption or abatement under the provisions of the private housing finance law, provided, however, that the benefits of this section shall not apply to any alterations or improvements done in connection with the refinancing, pursuant to section 223f of the national housing act, as amended, of a housing project organized pursuant to article two and article four of the private housing finance law;

(4) to any multiple dwelling for ordinary repairs and normal replacement of maintenance items, as provided in paragraph one of subdivision a, hereof in the event that the dwelling thereof is receiving the benefits of this section for other ordinary repairs and normal replacement of maintenance items as of the December thirty-first preceding the date of application;

(5) to the conversion of any building or structure, or portion thereof:

(i) (a) which is located within any district in the county of New York where a floor area ratio, as that term is defined in the zoning resolution of the city of New York, of fifteen or greater is permitted by said resolution, or

(b) located in the city of New York where residential conversion as of right is not permitted by the zoning resolution, provided, however, that notwithstanding anything to the contrary contained in this subparagraph, the benefits of this section shall apply to any building or structure or portion thereof which was purchased from the city of New York on or after January first, nineteen hundred and eighty and prior to December thirty-first, nineteen hundred and eighty-four and which was granted a variance for conversion to residential use by the board of standards and appeals prior to nineteen hundred and eighty-four which variance has expired, and which has been granted a variance for a conversion to residential use by the board of standards and appeals on or after January first, nineteen hundred and ninety-four and prior to June thirtieth, nineteen hundred and ninety-five, and

(ii) where such benefits are eliminated by regulations to be promulgated by the department of housing preservation and development pursuant to subdivision m of this section, unless, in the case of a building or structure in the county of New York, construction actually commenced prior to January first, nineteen hundred eighty-two, pursuant to an alteration permit, or, in the case of a building or structure in the counties of Bronx, Kings, Queens and Richmond, construction actually commenced prior to October first, nineteen hundred eighty-three, pursuant to an alteration permit. A copy of any proposed regulation pursuant to this paragraph shall be transmitted to the city council not less than sixty days prior to its publication in the City Record, pursuant to section eleven hundred five of the charter, and

(iii) provided that the provisions of this paragraph shall not apply to conversions pursuant to paragraph eight of subdivision b of this section.

(6) to any conversion of or alteration or improvement, commenced on or after July first, nineteen hundred eighty-two, to any class B multiple dwelling or class A multiple dwelling used in whole or in part for single room occupancy, regardless of the status or use of the building after the conversion, alteration or improvement unless such conversion, alteration or improvement is carried out with the substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality.

(7) to any conversion of or alteration or improvement, commenced on or after the effective date of this paragraph, to any property classified under the zoning resolution as a non-profit institution with sleeping accommodations, regardless of the status or use of the building after the conversion, alteration or improvement unless such conversion, alteration or improvement is carried out with the substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality.

i-1. (a) For purposes of this subdivision, "substantial governmental assistance" shall mean:

(i) grants, loans or subsidies from any federal, state or local agency or instrumentality in furtherance of a program for the development of affordable housing approved by the department of housing preservation and development, including, without limitation, financing or insurance provided by the state of New York mortgage agency or the New York city residential mortgage insurance corporation; or

(ii) a written agreement between a housing development fund corporation and the department of housing preservation and development limiting the incomes of persons entitled to purchase shares or rent housing accommodations therein.

(b) With respect to conversions, alterations or improvements completed on or after December thirty-first, two thousand eleven:

(i) except as otherwise provided in this section with respect to multiple dwellings, buildings and structures owned and operated either by limited-profit housing companies established pursuant to article two of the private housing finance law or redevelopment companies established pursuant to article five of the private housing finance law, or with respect to a group of multiple dwellings that was developed as a planned community and that is owned as two separate condominiums containing a total of ten thousand or more dwelling units, any multiple dwelling, building or structure that is owned as a cooperative or a condominium that has an average assessed value per dwelling unit that exceeds the assessed valuation limitation as provided in paragraph (e) of this subdivision shall only be eligible for such benefits if the alterations or improvements for which such multiple dwelling, building or structure has applied for the benefits pursuant to this section were carried out with substantial governmental assistance, and

(ii) no benefits pursuant to this section shall be granted for the conversion of any non-residential building or structure into a class A multiple dwelling unless such conversion was carried out with substantial governmental assistance.

(c) If the conversions, alterations or improvements for which such multiple dwelling, building or structure has applied for benefits pursuant to this section are not completed on the date upon which such department of housing preservation and development inspects the items of work claimed in such application, the department of housing preservation and development shall require the applicant to pay two times the actual cost for any additional inspections needed to verify the completion of such conversion, alteration or improvement.

(d) The revocation of benefits granted to any multiple dwelling, building or structure pursuant to this section shall not exempt any dwelling unit therein from continued compliance with the requirements of this section or of any local law or ordinance providing for benefits pursuant to this section.

(e) *Assessed value limitation.*

(i) For final assessment rolls to be completed prior to two thousand seventeen, the assessed value limitation shall be thirty thousand dollars.

(ii) For the final assessment roll to be completed in two thousand seventeen, the assessed value limitation shall be thirty-two thousand dollars increased by the cost-of-living adjustment percentage of two thousand seventeen. For the purposes of this computation, the cost-of-living adjustment percentage of two thousand seventeen shall be equal to the "applicable increase percentage" used by the United States commissioner of social security to determine the monthly social security benefits payable in two thousand seventeen to individuals, as provided by subsection (i) of section four hundred fifteen of title forty-two of the United States code.

(iii) For final assessment rolls to be completed in each ensuing year, the applicable assessed value limitation, cost-of-living adjustment percentage and applicable increase percentage shall all be advanced by one year, and the assessed valuation limitation shall be the previously applicable assessed value limitation increased by the new cost-of-living adjustment percentage. If there should be a year for which there is no applicable increase percentage due to a general benefit increase as defined by subdivision three of subsection (i) of section four hundred fifteen of title forty-two of the United States code, the applicable increase percentage for purposes of this computation shall be deemed to be the percentage which would have yielded that general benefit increase.

(iv) Notwithstanding anything to the contrary contained herein, the assessed value limitation shall not at any time exceed forty thousand dollars.

i-2. Notwithstanding the provisions of any general, special or local law providing for benefits pursuant to this section, applications for exemption and/or abatement under this section shall be filed electronically if the department of housing preservation and development makes electronic filing available.

j. Notwithstanding the provisions of the multiple dwelling law, or any local law, ordinance, provisions of this code, rule or regulation, any dwelling to which alterations and improvements are made pursuant to this section and which did not require a certificate of occupancy on April second, nineteen hundred forty-five, may be occupied lawfully after such date upon the completion of such alterations and improvements without such a certificate being obtained, provided, however, that such alterations and improvements shall have been made in conformity with law and the applicable provisions for fire protection required by articles six and seven of the multiple dwelling law.

k. No owner of a dwelling to which the benefits of this section shall be applied, nor any agent, employee, manager or officer of such owner shall directly or indirectly deny to any person because of race, color, creed, national origin, gender, sexual orientation, disability, marital status, age, religion, alienage or citizenship status, or the use of, participation in, or being eligible for a governmentally funded housing assistance program, including, but not limited to, the section 8 housing voucher program and the section 8 housing certificate program, 42 U.S.C. § 1437, et seq., or the senior citizen rent increase exemption program, pursuant to either chapter seven of title twenty-six of this code or section 26-509 of such code, any of the dwelling accommodations in such property or any of the privileges or services incident to occupancy therein. The term "disability" as used in this subdivision shall have the meaning set forth in section 8-102 of the code. Nothing in this subdivision shall restrict such consideration in the development of housing accommodations for the purpose of providing for the special needs of a particular group.

l. Any person who shall knowingly and willfully make any false statement as to any material matter in any application for the benefits of this section shall be guilty of an offense punishable by a fine of not more than five hundred dollars or imprisonment for not more than ninety days, or both. The commissioner of the department of housing preservation and development may reduce or revoke past and future exemption or tax abatement authorized pursuant to this section if the application for tax exemption or tax abatement contains a false statement or false information as to a material matter or omits a material matter.

m. Each agency or department to which functions are assigned by this section may adopt and promulgate rules and regulations for the effectuation of the purpose of this section.

n. The department of housing preservation and development may require a filing fee in an amount as provided by the rules and regulations promulgated by the department of housing preservation and development pursuant to subdivision m of this section.

o. Any tax abatement granted for a period of nine years to a multiple dwelling aided by a loan provided by the city of New York prior to January first, nineteen hundred seventy-one, shall upon application therefor be adjusted to extend for a period of up to twenty years, provided that the total abatement before and after such adjustment shall not exceed the total abatement to which such property was initially entitled under this section.

p. This section is enacted pursuant to the provisions of section four hundred eighty-nine of the real property tax law and subdivision two of section four hundred five of the private housing finance law.

q. No application for the benefits of this section shall be accepted by the department of finance if there are outstanding real estate taxes or water and sewer charges or payments in lieu of taxes which were due and owing as of the last day of the tax period preceding the date of such filing with the department of finance, provided that an applicant aided by article eight or article fifteen of the private housing finance law shall have such application accepted by the department of finance if there are no outstanding real estate taxes or water and sewer charges due and owing as of the last day of the tax period preceding commencement of construction.

r. In the event that any building or structure receiving the benefits of this section shall become operated exclusively for commercial, hotel or transient hotel use, the tax commission shall withdraw benefits granted herein prospectively.

s. The benefits of this section shall not apply to alterations or improvements to existing dwellings in existence on December thirty-first, nineteen hundred seventy-five where (i) such alterations or improvements were completed on or before December thirty-first, nineteen hundred seventy-five, and (ii) no dwelling units thereof on December thirty-first, nineteen hundred seventy-five had rentals which were subject to control by the city rent agency pursuant to chapter four of title twenty-six of the code. This subdivision shall not apply to alterations or improvements to any building or structure which is benefitted by mortgage insurance pursuant to section two hundred thirteen of the national housing act for applications filed prior to January first, nineteen hundred seventy-nine.

t. Notwithstanding any law to the contrary, the owner of any building or structure eligible for any of the benefits of this section which is converted to a class A multiple dwelling, completed, or substantially rehabilitated on or after January one, nineteen hundred seventy-four, shall register the initial rent for each dwelling unit in such building or structure with the New York state division of housing and community renewal. After such registration, the rents of such dwelling units shall be fully subject to regulations under chapter four of title twenty-six of the code so long as the benefits of this section are in effect or for such longer period as may be provided by law.

u. Any tax exemption or tax abatement authorized pursuant to this section may be revoked retroactively by the commissioner of department of housing preservation and development or the department of finance of the city of New York at any time during the authorized term of such tax exemption or tax abatement if real estate taxes or water and sewer charges due to the city of New York remain unpaid for one year after the same are due and payable. In no event shall revocation be effective prior to the date such taxes or charges were first due and payable.

v. Where alterations, improvements, or conversions include or benefit that part of a building which is not occupied for dwelling purposes but is occupied by stores or otherwise used for commercial purposes or community facilities, the increase in assessed valuation and the cost of the alteration shall be apportioned so that the benefits of this title shall not be provided for alterations, improvements or conversions made for other than dwelling purposes.

w. If any provision of this section or its application to any person shall be held invalid, the remainder of this section and the applicability of its provisions to other persons or circumstances shall not be affected thereby.

x. Notwithstanding any provision of this section, no benefit pursuant to paragraph five of subdivision b of this section shall be granted for work commenced after January first, nineteen hundred eighty, unless the applicant establishes that the department of housing preservation and development and tenants of such class A multiple dwelling were given notice of (i) the proposed work prior to commencement of such work, (ii) the identity of the owner's representative, and (iii) the tenants' rights under applicable law with respect to such work, provided that, in the case of a loan program supervised by such department, notice to the department shall be unnecessary, and further provided that the department may itself provide the required notice to the tenants.

y. Applicants for benefits under the provisions of this section shall file with the department of finance a form supplied by said department which (i) states an intention to file for benefits under the provisions of this section, (ii) describes the work for which tax benefits will be claimed and (iii) estimates the cost of such work which will be eligible for benefits. Such form shall be filed prior to the commencement of such work. If the scope of such work or the



estimated cost thereof changes materially, applicant shall file a revised statement. Applicants who fail to comply with the requirements of this subdivision shall be subject to a penalty not to exceed one hundred percent of the filing fee otherwise payable pursuant to subdivision n of this section.

z. A former tenant or former subtenant of premises in a nonresidential building which is the subject of an application for an alteration permit for conversion to a class A multiple dwelling, prior to the application for any tax exemption or abatement benefits for such building pursuant to this section, and as a condition to the grant thereof, shall be entitled to a relocation award under the terms and conditions set forth below:

(1) As used in this subdivision, the term "eligible tenant" shall mean any former tenant or former subtenant who:

(i) leased and used the vacated premises to conduct a manufacturing, warehousing, or wholesaling business for not less than two consecutive years immediately prior to vacating;

(ii) vacated such premises on or after April first, nineteen hundred eighty-one for any reason other than eviction for non-payment of rent;

(iii) vacated such premises (a) no earlier than twenty-four months prior to the filing date of an application for such alteration permit and (b) no later than the completion of the conversion as evidenced by the issuance of a permanent certificate of occupancy for a class A multiple dwelling;

(iv) either purchased or leased for a term of not less than eighteen months other premises within the city of New York with a floor area not less than one-third of the floor area of the vacated premises;

(v) relocated their business to such other premises within one year of vacating the vacated premises; and

(vi) paid all commercial rent or occupancy tax for the vacated premises. A subtenant shall be eligible to receive a relocation award notwithstanding any lack of eligibility of its prime tenant;

(2) the relocation award shall not exceed the greater of (i) the aggregate base rent which accrued and was paid by the eligible tenant during the final twenty-four months of its occupancy of the vacated premises or (ii) four dollars for each square foot that the eligible tenant occupied in the vacated premises during the final twenty-four months of its occupancy of the vacated premises. As used in this subdivision, base rent shall be calculated in the same manner as base rent is calculated for purposes of commercial rent or occupancy tax in the city of New York. However, the aggregate award payable to a prime tenant and/or any subtenants of such prime tenant shall not exceed the amount which would have been payable to the prime tenant had the prime tenant been eligible for an award based on the entire floor area it leased from the owner; and if such limitation applies, the awards shall be prorated based upon the total floor area used and occupied by each eligible tenant;

(3) the relocation award shall become due and payable to an eligible tenant at the time the eligible tenant (i) either purchases or leases other premises in accordance with paragraph one of this subdivision, and (ii) certifies eligibility to, and demands payment of, the award from the owner of the vacated building. If the relocation award is not paid within thirty days of such certification and demand, interest shall accrue on the relocation award from the date of the certification and demand at the rate of twenty-four percent per annum;

(4) at any time after such certification and demand and prior to the date of the filing of an application for tax exemption or abatement for the vacated building pursuant to this section, an eligible tenant who has not received a relocation award shall have a right to file a notice of claim. Such notice of claim shall be filed with the county clerk of the county in which the vacated building is located and shall verify the claimant's name, its compliance with eligibility requirements, the address of the vacated premises, the floor area it occupied, the name of the prime tenant if the claimant is a subtenant, and all the base rent that accrued and was paid by the claimant during the final twenty-four months of its occupancy;

(5) a notice of claim, filed in accordance with paragraph four of this subdivision, may be discharged by the filing of an undertaking with the clerk of the county in which the premises are located in an amount equal to the amount claimed and in accordance with the procedures set forth in subdivision four of section nineteen of the lien law, or by the payment into court of such amount in accordance with the procedures set forth in section fifty-five of such law;

(6) no tax exemption or abatement shall be granted pursuant to this section unless the department of housing preservation and development receives an affidavit from the applicant for benefits of this section which verifies that:

(i) the applicant has caused to be published a notice in a newspaper of general circulation within the city of New York, no later than sixty days prior to filing of an application for tax exemption or abatement pursuant to this section, which advises former tenants and subtenants of their rights pursuant to this subdivision; and

(ii) no notice of claim has been filed or all claims have been released by the claimants, or secured in accordance with the provisions of paragraph five of this subdivision, or discharged as an improper claim by court order;

(7) the affidavit required pursuant to the provisions of paragraph six of this subdivision shall be considered part of the application for benefits pursuant to this section;

(8) if an eligible tenant has duly filed a notice of claim pursuant to paragraph four of this subdivision and did not receive a relocation award as provided herein, it may commence an action against any applicant who filed a false affidavit pursuant to paragraph six of this subdivision or any security posted by such applicant pursuant to paragraph five of this subdivision, within three years of such filing. In any action to enforce a claim pursuant to this subdivision, if the court finds that the claimant has wilfully exaggerated the amount of the claim, the claimant may be held liable in damages for an amount not to exceed the proper relocation award. An eligible tenant in whose favor a judgment is entered shall be entitled to costs and reasonable legal fees and disbursements provided that such judgment is in excess of the amount which the applicant or owner offered to pay the eligible tenant;

(9) any lease or other rental agreement provision exempting, waiving, releasing or discharging the obligation to pay a relocation award pursuant to this subdivision shall be void as against public policy and wholly unenforceable;

(10) the provisions of this subdivision shall not apply south of fifty-ninth street in the county of New York if the zoning resolution of the city of New York expressly provides for relocation loans and/or grants in lieu of the benefits of this subdivision.

aa. *Harassment.*

(1) The provisions of this subdivision apply to and are additional requirements for claiming or receiving:

(a) any tax exemption under this section; or

(b) any tax abatement under this section where the certified reasonable cost per dwelling unit of the conversion, alteration or improvement (including the cost of any conversion, alteration or improvement for which an abatement was approved within four years prior to commencement of the conversion, alteration or improvement) exceeds seven thousand five hundred dollars.

(2) The owner of the property shall file with the department of housing preservation and development, not less than thirty days before the commencement of the conversion, alteration or improvement (hereinafter referred to as the "cut-off date"), an affidavit, or, where any information referred to in paragraph one of this subdivision changes prior to applying for or claiming any benefit under this section, an amending affidavit, setting forth the following information:

(a) every owner of record and owner of a substantial interest in the property or entity owning the property or sponsoring the conversion, alteration or improvement;

(b) a statement that none of such persons had, within the five years prior to the cut-off date, been found to have harassed or unlawfully evicted tenants by judgment or determination of a court or agency (including a non-governmental agency having appropriate legal jurisdiction) under the penal law, any state or local law regulating rents or any state or local law relating to harassment of tenants or unlawful eviction; and

(c) any change in the information required to be set forth.

(3) No conversion, alteration or improvement subject to this subdivision shall be eligible for tax exemption or tax abatement under this section where:

(a) any affidavit required under this subdivision has not been filed; or

(b) any such affidavit contains a willful misrepresentation or omission of any material fact; or

(c) any person referred to in subparagraph (a) of paragraph two of this subdivision has been found to have harassed or unlawfully evicted tenants as described in that paragraph, until and unless the finding is reversed on appeal, provided that any such finding after the cut-off date shall not apply to or affect any tax abatement or exemption for the conversion, alteration or improvement covered by the affidavit.

(4) The department of housing preservation and development and the department of finance shall maintain a list of affidavits as described in paragraph two of this subdivision. Each agency shall review that list with respect to each application or claim for benefits subject to this subdivision.

(5) "Substantial interest" as used in subparagraph (a) of paragraph two of this subdivision shall mean ownership of an interest of ten per centum or more in the property or entity owning the property or sponsoring the conversion, alteration or improvement.

(6) Where the conversion, alteration or improvement is commenced before August first, nineteen hundred eighty-three, the cut-off date shall be as set forth in this subdivision, but no affidavit shall be required to be filed until thirty days after the effective date of this subdivision.

bb. Notwithstanding any contrary provision of the private housing finance law, the benefits of this section shall apply to any limited profit housing company as provided in this section. Such multiple dwelling, building or structure shall be eligible for benefits where at least one building-wide improvement or alteration is part of the application for benefits. Furthermore, to the extent that such alterations or improvements are financed with grants, loans or subsidies from any federal, state, or local agency or instrumentality, such multiple dwelling, building or structure shall be eligible for benefits only if the limited profit housing company has entered into a binding and irrevocable agreement with the commissioner of housing of the state of New York, the supervising agency, as such term is defined in section two of the private housing finance law, the New York city housing development corporation, or the New York state housing finance agency prohibiting the dissolution or reconstitution of such limited profit housing company pursuant to section thirty-five of the private housing finance law for not less than fifteen years from the commencement of benefits. The abatement of taxes on such property, including the land, shall not be an amount greater than ninety per centum of the certified reasonable cost of such alterations or improvements, as determined under regulations of the department of housing preservation and development, nor greater than eight and one-third percent of such certified reasonable cost in any twelve month period, nor be effective for more than twenty years. The annual abatement of taxes in any twelve month period shall in no event exceed fifty percent of the amount of taxes payable in such twelve month period pursuant to the applicable exemption granted pursuant to article two of the private housing finance law or other applicable laws or fifty percent of payments required to be made in lieu of taxes in such twelve month period. Notwithstanding the foregoing, the annual abatement of taxes for alterations or improvements commenced prior to June first, nineteen hundred eighty-six may not be applied to reduce the amount of taxes payable or the amount of payments required to be made in lieu of taxes in any twelve month period to an amount less than the minimum amount of taxes required to be paid pursuant to section thirty-three of the private housing finance law.

cc. The commissioner of the department of housing preservation and development and the commissioner of the department of finance shall prepare an annual report which shall be submitted to the Mayor and the council on or before the first day of July next succeeding the year to which the report pertains, regarding the exemptions and abatements granted pursuant to this section and shall include, but not be limited to the following information: (i) the amount of real property tax that would have been paid in the aggregate by the owners of real property granted an exemption or abatement if the property were fully taxable and the amount of tax actually paid in the aggregate by such owners, (ii) the geographic distribution of exemptions and abatements granted pursuant to this section, and (iii) a distribution by type of eligible categories as delineated in paragraphs one through nine of subdivision b of this section.

dd. *Partial waiver of rent adjustments attributable to major capital improvements.*

(1) The provisions of this subdivision apply to and are additional requirements for claiming or receiving any tax abatement under this section, except as provided in paragraphs three and four of this subdivision.

(2) The owner of the property shall file with the department of housing preservation and development, on the date any application for benefits is made, a declaration stating that in consideration of any tax abatement benefits which may be received pursuant to such application for alterations or improvements constituting a major capital improvement, such owner agrees to waive the collection of a portion of the total annual amount of any rent adjustment attributable to such major capital improvement which may be granted by the New York state division of housing and community renewal pursuant to the rent stabilization code equal to one-half of the total annual amount of the tax abatement benefits which the property receives pursuant to such application with respect to such alterations or improvements. Such waiver shall commence on the date of the first collection of such rent adjustment, provided that, in the event that such tax abatement benefits were received prior to such first collection, the amount waived shall be increased to account for such tax abatement benefits so received. Following the expiration of a tax abatement for alterations or improvements constituting a major capital improvement for which a rent adjustment has been granted by such division, the owner may collect the full amount of annual rent permitted pursuant to such rent adjustment. A copy of such declaration shall be filed simultaneously with the New York state division of housing and community renewal. Such declaration shall be binding upon such owner, and his or her successors and assigns.

(3) The provisions of this subdivision shall not apply to substantial rehabilitation of buildings vacant when alterations or improvements are commenced or to buildings rehabilitated with the substantial assistance of city, state or federal subsidies.

(4) The provisions of this subdivision shall apply only to alterations and improvements commenced after its effective date.

ee. The department of housing preservation and development shall make information relating to the provisions of this section available on the department's website, and shall provide a contact phone number allowing tenants to determine benefits available pursuant to this section. The department shall convene a task force that shall examine and report on methods to improve the transparency of the program established pursuant to this section.

(Am. L.L. 2016/060, 5/10/2016, eff. 5/10/2016; Am. L.L. 2018/052, 1/11/2018, retro. eff. 9/29/2016; Am. L.L. 2020/023, 1/19/2020, eff. 1/19/2020)

### **§ 11-243.1 Partial abatement for certain rebuilt real property seriously damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve in a city having a population of one million or more.**

1. *Generally.* Notwithstanding any provision of any general, special or local law to the contrary, for the fiscal year beginning on the first of July, two thousand fourteen, the commissioner of finance shall grant a partial abatement of real property taxes in the amount provided in this section to eligible real property as defined in subdivision three of this section on the first of July, two thousand fourteen. If legal title to eligible real property is held by one or more trustees, the beneficial owner or owners shall be deemed to own the property for purposes of this section. Notwithstanding any provision of article four of the real property tax law to the contrary, a property that is receiving benefits pursuant to any other section of article four of the real property tax law shall not be prohibited from receiving a partial abatement pursuant to this section if such property is otherwise eligible to receive such abatement.

2. *Definitions.* As used in this section:

- a. "Actual assessed valuation" means the assessed valuation of real property prior to the calculation of any transitional assessed valuation pursuant to subdivision three of section eighteen hundred five of the real property tax law, and which is not reduced by any exemption from real property taxes.
- b. "Annual tax" means the amount of real property tax that is imposed on a property for a fiscal year, determined after reduction for any amount from which the property is exempt, or which is abated, pursuant to applicable law.
- c. "Annual tax attributable to improvements" means the amount of real property tax that is imposed on a property for a fiscal year, determined after reduction for any amount from which the property is exempt, or which is abated, pursuant to applicable law, multiplied by a fraction, the numerator of which is equal to the assessed valuation of the property for such fiscal year that is attributable to the improvements on the property, and the denominator of which is the total assessed valuation of the property for such fiscal year.
- d. "Assessed valuation" means the assessed valuation of real property that was used to determine the annual tax as defined in paragraph b of this subdivision, and which is not reduced by any exemption from real property taxes. For real property classified as class two or class four real property as defined in subdivision one of section eighteen hundred two of the real property tax law to which subdivision three of section eighteen hundred five of the real property tax law applies, unless otherwise provided, the assessed valuation is the lower of the actual assessed valuation as defined in paragraph a of this subdivision and transitional assessed valuation as defined in paragraph j of this subdivision.
- e. "Assessed valuation attributable to improvements" means that portion of the assessed valuation of real property that was used to determine the annual tax attributable to improvements as defined in paragraph c of this subdivision, and which is not reduced by any exemption from real property taxes.
- f. "Commissioner of finance" means the commissioner of finance of the city of New York, or his or her designee.
- g. "Department of finance" means the department of finance of the city of New York.
- h. "Improvements" means buildings and other articles and structures, substructures and superstructures erected upon, under or above the land, or affixed thereto, including bridges and wharves and piers and the value of the right to collect wharfage, crantage or dockage thereon.
- i. "Total square footage of the improvements on the property" means, with respect to a fiscal year, the square footage used by the department of finance in determining the assessed valuation attributable to improvements on the property for such fiscal year.
- j. "Transitional assessed valuation" is the assessed valuation calculated pursuant to subdivision three of section eighteen hundred five of the real property tax law, and which is not reduced by any exemption from real property taxes.

3. *Eligible real property.* For purposes of this section, "eligible real property" means any tax lot that contained, on the applicable taxable status date, class one, class two or class four real property as such class of real property is defined in subdivision one of section eighteen hundred two of the real property tax law, as to which:

- a. the department of finance reduced the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand thirteen from the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand twelve as a result of damage caused by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve;
- b. the department of finance increased the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand fourteen from the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand thirteen; and
- c. the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand fourteen exceeds the assessed valuation attributable to improvements on the property for the fiscal year beginning on the first of July, two thousand twelve.

4. *Amount of partial abatement.*

- a. Except as provided in paragraph c of this subdivision, eligible real property shall receive a partial abatement of the real property taxes due on such property equal to the amount by which (1) the annual tax on the property for the fiscal year beginning on the first of July, two thousand fourteen exceeds (2) the annual tax on the property for the fiscal year beginning on the first of July, two thousand twelve.
- b. Notwithstanding paragraph a of this subdivision and except as provided in paragraph c of this subdivision, the amount of the partial abatement of the real property taxes due on eligible real property classified as class two or class four real property as defined in subdivision one of section eighteen hundred two of this chapter to which subdivision three of section eighteen hundred five of this chapter applies shall be equal to the amount of (1) the increase in the actual assessed valuation attributable to an addition to or improvement of the property as provided in subdivision five of section eighteen hundred five of the real property tax law for the fiscal year beginning on the first of July, two thousand fourteen, (2) reduced by the increase in the actual assessed valuation attributable to an addition to or improvement of the property as provided in subdivision five of section eighteen hundred five of the real property tax law for the fiscal year beginning on the first of July, two thousand thirteen, multiplied by a fraction, the numerator of which is the transitional assessed valuation for the fiscal year beginning on the first of July, two thousand thirteen, and the denominator of which is the actual assessed valuation for the fiscal year beginning on the first of July, two thousand fourteen. Eligible real property shall not be eligible for an abatement under this section if the fraction calculated in subparagraph two of this paragraph is equal to or greater than one.
- c. In the event that the total square footage of the improvements on the property for the fiscal year beginning on the first of July, two thousand fourteen exceeds the total square footage of the improvements on the property for the fiscal year beginning on the first of July, two thousand twelve, the amount of the partial abatement shall be the amount computed by multiplying the amount calculated under paragraph a or b of this subdivision by a fraction, the numerator of which is equal to the amount of the total square footage of the improvements on the property for the fiscal year beginning on the first of July, two thousand twelve, and the denominator of which is equal to the amount of the total square footage of the improvements on the property for the fiscal year beginning on the first of July, two thousand fourteen.
- d. For property held in the cooperative form of ownership, the abatement shall be credited to each unit therein in an amount equal to that proportion of the amount calculated under this subdivision that is attributable to such unit, as determined by the proportional relationship of the owner's share or shares of stock in the cooperative corporation that owns such real property to the total outstanding stock of the cooperative corporation.
- e. Eligible real property shall not be eligible for an abatement under this section if the amount of the abatement calculated pursuant to this subdivision exceeds the annual tax on the property for the fiscal year beginning on the first of July, two thousand fourteen.

5. *Recovery of erroneous abatement.*

- a. For purposes of this section, an "erroneous abatement" means that:
  - (1) an abatement was granted to a property that was not entitled to an abatement under this section, or
  - (2) an abatement was applied or calculated in error under this section. In such event, the amount of the erroneous abatement shall be equal to the difference between the amount of the abatement originally received and the amount to which the property was entitled.

b. If the commissioner of finance determines that a property received an erroneous abatement, he or she shall recover such erroneous abatement by deducting the amount of the erroneous abatement from any refund or rebate otherwise payable to the owner, and any balance of the amount of the erroneous abatement remaining unpaid shall constitute a tax lien on the real property, as of the due and payable date provided on the next tax bill mailed by the commissioner of finance containing such amount. If such amount is not paid by such due and payable date, interest at the rate applicable to delinquent real property taxes on such property shall be charged and collected on such amount from the due and payable date provided on such notice to the date of payment. Such tax lien shall be enforceable in accordance with the provisions of law relating to the enforcement of tax liens in any such city.

6. *Reduction of assessed value.* If the taxable assessed value of a property for the fiscal year beginning on the first of July, two thousand fourteen is reduced after the assessment roll applicable to such fiscal year becomes final, any abatement already granted pursuant to this section shall be adjusted accordingly. The difference between the original abatement and the adjusted abatement shall be deducted from any credit otherwise due.

7. *Rulemaking.* The commissioner of finance shall be authorized to promulgate rules necessary to effectuate the purposes of this section.

### **§ 11-244 Tax exemption and abatement for rehabilitated buildings.**

a. As used in this section, the following terms shall have the following meanings:

1. "Eligible real property" shall mean:

(i) any class B multiple dwelling;

(ii) any class A multiple dwelling used for single room occupancy pursuant to section two hundred forty-eight of the multiple dwelling law which contains no more than twenty-five percent class A dwelling units which contain lawful sanitary and kitchen facilities within the dwelling unit, provided that in the case of a multiple dwelling containing ten dwelling units or less, up to forty percent of the dwelling units may be class A units;

(iii) not-for-profit institutions with sleeping accommodations. Notwithstanding the foregoing, eligible real property shall not include college and school dormitories, club houses, or residences whose occupancy is restricted to an institutional use such as housing intended for use primarily or exclusively by the employees of a single company or institution. A building is an eligible real property only if it qualifies as such after completion of the eligible improvements, but need not have been an eligible real property prior to the eligible improvements.

2. "Eligible improvements" shall be limited to the following categories of work, provided further that such work shall be in conformity with all applicable laws:

(i) replacement of a boiler or burner or installation of an entire new heating system;

(ii) replacement or upgrading of electrical system;

(iii) replacement or upgrading of elevators;

(iv) installation or replacement or upgrading of the plumbing system, including water main and risers;

(v) replacement or installation of walls, ceilings, floors or trim where necessary;

(vi) replacement or upgrading of doors, installation of security devices and systems;

(vii) installation, replacement or upgrading of smoke detectors, fire alarms, fire escapes, or sprinkler systems;

(viii) replacement or repair of roof, leaders and gutters;

(ix) replacement or installation of bathroom facilities;

(x) installation of wall and pipe insulation;

(xi) replacement or upgrading of street connections for water or sewer services;

(xii) replacement or installation of windows, or installation of window gates or guards;

(xiii) installation or replacement of boiler smoke stack;

(xiv) pointing, waterproofing and cleaning of entire building exterior surface; (xv) improvements designed to conserve the use of fuel, electricity or other energy sources;

(xvi) work necessary to effect compliance with all applicable laws including but not limited to the multiple dwelling law, the New York city housing maintenance code and the building code; and

(xvii) improvements unique to congregate living facilities, as defined by rules and regulations promulgated by the department of housing preservation and development.

3. "Existing dwelling" shall mean any eligible real property in existence prior to the commencement of eligible improvements, for which tax exemption and abatement is claimed under the terms of this section and for which a valuation appears on the annual record of assessed valuation of the city for the fiscal year immediately preceding the commencement of construction of such eligible improvements.

4. "Commencement of eligible improvement" shall mean the beginning of any physical operation undertaken for the purpose of making eligible improvements to eligible real property.

5. "Completion of eligible improvement" shall mean the conclusion or termination of any physical operation referred to in the preceding paragraph, to an extent or degree which renders an eligible property capable of use for the purpose for which the improvements were intended.

6. "Permanent resident" shall mean a person who has resided in eligible real property for six months or more; has a lease or other rental agreement for a term of six or more months; or has requested a lease pursuant to the provisions of the rent stabilization code for housing accommodations located in hotels.

b. Any increase in the assessed valuation of eligible real property shall be exempt from taxation for local purposes for a period of thirty-two years to the extent such increase results from eligible improvements, provided that:

(i) the eligible improvements are commenced after July first, nineteen hundred eighty, and prior to December thirty-first, two thousand nineteen, and are completed within thirty-six months from commencement;

(ii) the department of housing preservation and development determines and certifies the cost, qualification and eligibility of any improvement for benefits of this section;

(iii) the exemption may commence no sooner than the July first following the filing with the department of finance of a certification of eligibility issued by the department of housing preservation and development for benefits of this section; provided, however, that if the rehabilitation is carried out with substantial government assistance as part of a program for affordable housing the exemption may commence no sooner than the July first following the

commencement of construction of eligible improvements;

(iv) immediately prior to, and during, the construction of eligible improvements, not less than fifty percent of the dwelling units in such eligible real property are occupied by permanent residents; provided that such occupancy requirement shall not apply to a vacant, governmentally owned multiple dwelling which had been vacant for not less than two years prior to the commencement of construction of eligible improvements, nor to a vacant multiple dwelling where the eligible improvements are carried out with the substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality or any not-for-profit philanthropic organization one of whose primary purposes is providing low or moderate income housing;

(v) no outstanding real estate taxes, water and sewer charges, payments in lieu of taxes or other municipal charges are due and owing as of the tax quarter immediately preceding the commencement of tax exemption pursuant to this section; provided that an applicant aided pursuant to the provisions of the private housing finance law shall have such application accepted by the tax commission if there are no outstanding real estate, water and sewer taxes due and owing as of the last day of the tax quarter preceding commencement of construction of eligible improvements;

(vi) Except in the case of eligible real property which is receiving or has received assistance pursuant to a governmental rent subsidy program or which is owned by a not-for-profit corporation or by a wholly owned subsidiary of a not-for-profit corporation and which is receiving or has received assistance pursuant to a governmental loan subsidy program, as defined by the rules and regulations promulgated by the department of housing preservation and development, for the construction of eligible improvements, the initial rent after completion of eligible improvements, for ninety percent of the total number of dwelling units occupied by permanent residents in a class A or class B multiple dwelling other than apartments shall not exceed the greater of either the amount of any governmental rental assistance received by an occupant or seventy-five percent of the rent which is permitted to be charged for zero-bedroom units on the moderate rehabilitation fair market rent schedule as determined by the United States department of housing and urban development for the housing assistance payments program under section eight of the national housing act;

(vii) no person residing in eligible real property prior to or during the construction of eligible improvements shall be required by the owner to vacate the eligible real property solely in order to perform the eligible improvements or any related work.

c. Eligible real property which qualifies for exemption from taxation for local purposes for eligible improvements shall also be eligible for an annual abatement of real property taxes in an amount not to exceed twelve and one half percent of the reasonable cost of eligible improvements certified by the department of housing preservation and development, which abatement may commence on the first day of the first tax quarter following the filing with the department of finance of a certification of eligibility issued by the department of housing preservation and development for benefits of this section; provided, however, that if the rehabilitation is carried out with substantial government assistance as part of a program for affordable housing the abatement may commence no sooner than the first day of the first tax quarter following the commencement of construction of eligible improvements, provided further that:

(i) the annual abatement shall not exceed the amount of taxes otherwise payable in the corresponding year;

(ii) the period during which such abatement is effective shall not exceed twenty consecutive years from the date such abatement first becomes effective; and

(iii) the total abatement shall not exceed the lesser of one hundred fifty percent of the certified reasonable costs of eligible improvements or the actual costs as determined by the department of housing preservation and development pursuant to its rules and regulations.

d. During the period of tax exemption or abatement pursuant to this section, each of the following shall be a condition precedent to the continuation of the exemption and/or abatement:

(i) compliance with all applicable provisions of law, including but not limited to the multiple dwelling law, the building code and the housing maintenance code;

(ii) all dwelling units, except owner occupied units, shall be subject to the emergency housing rent control law or the local housing rent control act or the tenant protection act of nineteen hundred seventy-four,\* or any local laws enacted pursuant thereto or the rent stabilization law of nineteen hundred sixty-nine; provided, however, that the department of housing preservation and development may exempt from this requirement dwelling units that are not occupied by permanent residents in those buildings owned by a not-for-profit corporation and which are improved with the aid of a rehabilitation loan from any government agency or instrumentality or operated pursuant to a contract with a governmental entity.

(iii) eligible real property receiving tax exemption or tax abatement benefits under this section shall not receive tax exemption or tax abatement for new construction or rehabilitation under any other provision of law;

(iv) the eligible improvements shall not be used as the basis for any application for rent increases and the owner shall file a statement to such effect with the department of housing preservation and development and with any appropriate rent regulatory agency, provided, however, that rents of units improved with the aid of a rehabilitation loan from any governmental agency or instrumentality may within the limitations established by this section be increased pursuant to the rules and regulations of the department of housing preservation and development.

(v) A minimum of seventy-five percent of the dwelling units shall be rental units occupied by permanent residents; provided, however that the department of housing preservation and development may exempt from this requirement those buildings improved with the aid of a rehabilitation loan from any governmental agency or instrumentality or operated pursuant to a contract with a governmental entity.

e. During the period of tax exemption or abatement pursuant to this section, the owner shall submit an annual certification to the department of housing preservation and development in the form prescribed by such department. Failure to submit such certification in any given year may result in the revocation of benefits. The certification shall include the following:

(i) the total number of dwelling units within the eligible real property and the total number of dwelling units occupied by permanent residents;

(ii) the number of dwelling units subject to the provisions of the emergency housing rent control act, the emergency tenant protection act of nineteen hundred seventy-four\* or any local laws enacted pursuant thereto; the emergency housing rent control law or the rent stabilization law of nineteen hundred sixty-nine; and

(iii) all such other information required by the department of housing preservation and development.

f. Any tax exemption or tax abatement authorized pursuant to this section may be revoked or reduced by the department of housing preservation and development or by the department of finance of the city of New York at any time during the authorized term of such tax exemption or tax abatement upon a finding by either department that:

(i) the application for benefits pursuant to this section or the annual certification required hereunder contains a false statement or false information as to a material matter, or omits a material matter, in which case the revocation or reduction may be retroactive to the commencement of benefits pursuant to this section;

(ii) real estate taxes, water, sewer or other municipal charges, or payments in lieu of said taxes or charges are, and have remained, due and owing for more than one year, in which case the revocation or reduction may be retroactive to the commencement of benefits pursuant to this section, provided that in no event shall revocation be effective prior to the date such taxes or charges were first due and payable; or

(iii) the eligible real property fails to comply with one or more of the provisions or requirements of this section.

g. Application forms for the benefits of this section shall be filed with the tax commission within the time periods to be established by rules and

regulations promulgated by the department of housing preservation and development, pursuant to subdivision i of this section. The tax commission shall certify to the department of finance the amount of taxes to be abated, pursuant to the certification of the department of housing preservation and development as herein provided. No such application shall be accepted unless accompanied by a copy of the certificate of the department of housing preservation and development both as to reasonable cost and as to eligibility as provided in subdivision b of this section.

h. No owner of a dwelling to which the benefits of this section apply, nor any agent, employee, manager or officer of such owner shall directly or indirectly deny to any person because of race, color, creed, national origin, sex, disability, marital status, age, religion or sexual orientation any of the dwelling accommodations in such property or any of the privileges or services incident to occupancy therein. The term "disability" as used in this subdivision shall mean a physical, mental or medical impairment resulting from anatomical, physiological, or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques. Nothing in this subdivision shall restrict such consideration in the availability of housing accommodations for the purpose of providing for the special needs of a particular group.

i. The department of housing preservation and development shall determine and certify the reasonable cost of any such conversions, alterations or improvements and eligibility for the benefits of this section and for that purpose may adopt rules and regulations, administer oaths to and take the testimony of any person, including, but not limited to the owner of such property, may issue subpoenas requiring the attendance of such persons and the production of such bills, books, papers or other documents as it shall deem necessary, may make preliminary estimates of the maximum reasonable cost of such conversions, alterations or improvements, may establish maximum allowable costs of specified units, fixtures or work in such conversions, alterations or improvements, and may require the submission of plans and specifications of such conversions, alterations or improvements before the start thereof. Applications for certification shall include all bills and other documents showing the cost of construction or such other evidence of such cost as shall be satisfactory to the department of housing preservation and development, including, without limitation, certification of cost by a certified public accountant in accordance with generally accepted accounting principles. Each additional agency to which functions are assigned by this section may adopt and promulgate rules and regulations for the effectuation of the purposes of this section.

j. The department of housing preservation and development may require a filing fee in an amount as provided by the rules and regulations promulgated by the department of housing preservation and development pursuant to subdivision i of this section.

k. Any person who shall knowingly and wilfully make any false statements as to any material matter in any application for the benefits of this section shall be guilty of an offense punishable by a fine of not more than five hundred dollars or imprisonment for not more than ninety days, or both.

l. If any provision of this section or its application to any person shall be held invalid, the remainder of this section and the applicability of its provisions to other persons or circumstances shall not be affected thereby.

(Am. L.L. 2016/061, 5/10/2016, eff. 5/10/2016)

### **§ 11-245 Area eligibility limitations on benefits pursuant to section four hundred twenty-one-a of the real property tax law.\***

\* **Editor's note:** this § 11-245 was amended extensively by L.L. 2006/058 §§ 1-5, 8, 12/28/2006, eff. 12/28/2007. Section 12 of that local law provides in part that "sections one through eight of this local law [i.e., all of the local law's amendments to this § 11-245] shall expire four years after their enactment."

(a) No benefits under section four hundred twenty-one-a of the real property tax law shall be conferred for any construction commenced on or after November twenty-ninth, nineteen hundred eighty-five and prior to December thirty-first, two thousand seven for any tax lots now existing or hereafter created which are located entirely within the geographic area in the borough of Manhattan bounded and described as follows: BEGINNING at the intersection of the bulkhead line in the Hudson River and 96th street extended; thence easterly to 96th street and continuing along 96th street to its easterly terminus; thence easterly to the intersection of 96th street extended and the bulkhead line in the East River; thence southerly along said bulkhead line to the intersection of said bulkhead line and 14th street extended; thence westerly to 14th street and continuing along 14th street to Broadway; thence southerly along Broadway to Houston street; thence westerly along Houston street to Thompson street; thence southerly along Thompson street to Spring street; thence westerly along Spring street to Avenue of the Americas; thence northerly along Avenue of the Americas to Vandam street; thence westerly along Vandam street to Varick street; thence northerly along Varick street to Houston street; thence westerly along Houston street and continuing to its westerly terminus; thence westerly to the intersection of Houston street extended and the bulkhead line in the Hudson River; thence northerly along said bulkhead line to the intersection of said bulkhead line and 30th street extended; thence easterly along 30th street to 11th avenue; thence northerly along 11th avenue to 41st street; thence westerly along 41st street and continuing to its westerly terminus; thence westerly to the intersection of 41st street extended and the bulkhead line in the Hudson River; thence northerly along said bulkhead line to the place of beginning.

(a-1) Notwithstanding the provisions contained in subdivision (a) of this section concerning the date of commencement of construction, the amendments to such subdivision (a) made by local law number 22 for the year 2005 shall only apply to construction commenced on or after March seventh, two thousand six and prior to December thirty-first, two thousand seven.

(a-2) Notwithstanding the provisions contained in subdivision (a) of this section concerning the date of commencement of construction, the amendments to such subdivision (a) made by the local law that added this subdivision shall only apply to construction commenced on or after the effective date of section three of the local law that added this subdivision and prior to December thirty-first, two thousand seven.

(b) The limitations contained in subdivision (a) of this section shall not be applicable to:

- (1) construction carried out with substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality, or
- (2) projects where the department of housing preservation and development has imposed a requirement or has certified that twenty percent of the units be affordable to households of low and moderate income, or
- (3) construction carried out pursuant to an agreement with the department of housing preservation and development to create or substantially rehabilitate housing units offsite affordable to households of low and moderate income provided that:
  - (i) the number of any such low income units which may be made available to homeless households must be equal to a ratio of at least one low income unit for every six units in the building or buildings located in the area described in subdivision (a) of this section which receive benefits pursuant to section four hundred twenty-one-a of the real property tax law; or
  - (ii) the number of any such low income units which may be made available must be equal to at least twenty per cent of the number of units in the building or buildings located in the area described in subdivision (a) of this section which receive benefits pursuant to section four hundred twenty-one-a of the real property tax law; or
  - (iii) the number of any such moderate income units which may be made available must be equal to at least twenty-five per cent of the number of units in the building or buildings located in the area described in subdivision (a) of this section which receive benefits pursuant to section four hundred twenty-one-a of the real property tax law; and
  - (iv) in any building containing more than one hundred thirty units of low and moderate income housing created or substantially rehabilitated pursuant to this paragraph, two of every three units in excess of one hundred thirty units shall at initial occupancy be affordable to moderate income households; and
  - (v) upon, initial occupancy, all such housing units affordable to households of low and moderate income must be registered with the New York state division of housing and community renewal. Such units must remain rent stabilized for the entire period during which such units receive real estate

tax benefits under any New York state or city tax abatement and/or exemption programs, or for twenty years, whichever is longer; future rent increases may not exceed the increases established by the rent guidelines board; upon vacancy, units must be re-rented at no more than the legal stabilized rent. All units must be rented to households earning no more than four times such annual rent at the time of initial occupancy; the lease for the tenants in occupancy of all units created pursuant to this paragraph at the expiration of the rent stabilization period pursuant to this sub-paragraph shall include the right to remain as rent stabilized tenants for the duration of their occupancy. Once units become vacant after termination of such rent stabilization period, the owner of such units shall have the option to de-stabilize such rents; and

(vi) the provisions of sub-paragraph (v) shall not apply to any unit owned as a cooperative or condominium and occupied by the shareholder or owner; and

(vii) nothing contained in this paragraph shall preclude a grant of benefits under section four hundred twenty-one-a of the real property tax law for any building or buildings located in the area described in subdivision (a) of this section if carried out pursuant to an agreement entered into prior to January first, nineteen hundred ninety-one, with the department of housing preservation and development to create or substantially rehabilitate housing units affordable to households of low and moderate income in a geographic area or areas outside the area described in subdivision (a) of this section, provided that the number of such low and moderate income units must be equal to at least twenty per cent of the number of units in the building or buildings located in the area described in subdivision (a) of this section which receive benefits pursuant to section four hundred twenty-one-a of the real property tax law.

(b-1) With respect to construction commenced on or after the effective date of the local law that added this subdivision, except as otherwise provided in section ten of the local law that added this subdivision, each restricted income unit required pursuant to subdivision b of this section shall be situated onsite. For the purposes of this subdivision, "onsite" shall mean that restricted income units shall be situated within the building or buildings for which benefits pursuant to section four hundred twenty-one-a of the real property tax law are being granted.

(b-2) With respect to construction commenced on or after the effective date of the local law that added this subdivision, except as otherwise provided in section ten of the local law that added this subdivision, for the purposes of this section and of section 11-245.1-b of this chapter, any requirement that not less than twenty percent of onsite units be "restricted income" units shall mean that such units shall be affordable to and occupied or available for occupancy by individuals or families whose incomes at the time of initial occupancy do not exceed eighty percent of the area median income adjusted for family size; provided that, of such restricted income units, no more than a number equal to five percent of the number of units which commenced construction in buildings receiving tax benefits pursuant to section four hundred twenty one-a of the real property tax law in the previous calendar year shall be affordable to and occupied or available for occupancy by individuals or families whose incomes at the time of initial occupancy are between sixty percent and eighty percent of the area median income adjusted for family size.

(c) No benefits under section four hundred twenty-one-a of the real property tax law shall be conferred for any construction commenced on or after November twenty-ninth, nineteen hundred eighty-five of any multiple dwelling, or portion thereof, which is located within any district in the county of New York where a maximum base floor area ratio, as that term is defined in the zoning resolution, of fifteen or greater was permitted as of right by provisions of such resolution in effect on April fourteenth, nineteen hundred eighty-two; provided, however, that this limitation on benefits shall not apply to any such construction commenced on or after October first, nineteen hundred ninety-three and before December thirty-first, two thousand seven.

(d) For purposes of subdivisions (a) and (c) of this section, construction shall be deemed to have commenced on the date immediately following the issuance by the department of buildings of a new building permit for an entire new building (based upon architectural, plumbing and structural plans approved by such department) on which the excavation and construction of initial footings and foundations commences in good faith, on vacant land and for the entire project site, as certified by an architect or professional engineer licensed in the state, provided that installation of footings and foundations is similarly certified by such architect or engineer to have been completed without undue delay.

(e) The department of housing preservation and development may promulgate rules and regulations for the effectuation of the purposes of this section.

(f) The limitations on eligibility for benefits contained in this section shall be in addition to those contained in any other law or regulation.

### **§ 11-245.1 Site eligibility limitations on benefits pursuant to section four hundred twenty-one-a of the real property tax law.**

(a) Where eligibility for benefits under section four hundred twenty-one-a of the real property tax law is sought for any construction commenced on or after November twenty-ninth, nineteen hundred eighty-five and before May twelfth, two thousand on the basis that such construction shall take place on land which, on the date thirty-six months prior to the commencement of such construction, was improved with a nonresidential building or buildings and was under-utilized, the under-utilization of the land must have been such that each building or buildings:

(1) contained no more than the permissible floor area ratio for nonresidential buildings in the zoning district in question and a floor area ratio which was twenty percent or less of the maximum floor area ratio for residential buildings, or

(2) had an assessed valuation equal to or less than twenty percent of the assessed valuation of the land on which the building or buildings were situated, or

(3) by reason of the configuration of the building, or substantial structural defects not brought about by deferred maintenance practices or intentional conduct, could no longer be functionally or economically utilized in the capacity in which it was formerly utilized. For purposes of this subdivision and subdivisions (a-1) through (a-4) of this section, construction shall be deemed to have commenced on the date immediately following the issuance by the department of buildings of a new building permit for an entire new building (based upon architectural, plumbing and structural plans approved by such department) on which the excavation and the construction of initial footings and foundations commences in good faith, on vacant land and for the entire project site, as certified by an architect or professional engineer licensed in the state, provided that installation of footings and foundations is similarly certified by such architect or engineer to have been completed without undue delay.

(a-1) Except as provided in subdivision (a-2) of this section, where eligibility for benefits under section four hundred twenty-one-a of the real property tax law is sought for any construction commenced on or after May twelfth, two thousand and before the effective date of the local law that added subdivisions (a-3) and (a-4) of this section on the basis that such construction shall take place on land which, on the date thirty-six months prior to the commencement of such construction, was improved with a nonresidential building or buildings and was under-utilized, the under-utilization of the land must have been such that each building or buildings:

(1) contained no more than the permissible floor area ratio for nonresidential buildings in the zoning district in question and a floor area ratio which was seventy-five percent or less of the maximum floor area ratio for residential buildings, or

(2) had an assessed valuation equal to or less than seventy-five percent of the assessed valuation of the land on which the building or buildings were situated, or

(3) by reason of the configuration of the building, or substantial structural defects not brought about by deferred maintenance practices or intentional conduct, could no longer be functionally or economically utilized in the capacity in which it was formerly utilized. For purposes of this subdivision, construction shall be deemed to have commenced as provided in subdivision (a) of this section.

(a-2) Where eligibility for benefits under section four hundred twenty-one-a of the real property tax law is sought for any construction on any tax lot now existing or hereafter created which is located south of or adjacent to either side of one hundred tenth street in the borough of Manhattan which construction commenced on or after May twelfth, two thousand and before the effective date of the local law that added subdivisions (a-3) and (a-4) of this section on the basis that such construction shall take place on land which, on the date thirty-six months prior to the commencement of such construction,

was improved with a nonresidential building or buildings and was under-utilized, the under-utilization of the land must have been such that each building or buildings:

(1) contained no more than the permissible floor area ratio for nonresidential buildings in the zoning district in question and a floor area ratio which was fifty percent or less of the maximum floor area ratio for residential buildings, or

(2) had an assessed valuation equal to or less than fifty percent of the assessed valuation of the land on which the building or buildings were situated, or

(3) by reason of the configuration of the building, or substantial structural defects not brought about by deferred maintenance practices or intentional conduct, could no longer be functionally or economically utilized in the capacity in which it was formerly utilized. For purposes of this subdivision, construction shall be deemed to have commenced as provided in subdivision (a) of this section.

(a-3) Except as provided in subdivision (a-4) of this section, where eligibility for benefits under section four hundred twenty-one-a of the real property tax law is sought for any construction commenced on or after the effective date of the local law that added this subdivision on the basis that such construction shall take place on land which, on the date thirty-six months prior to the commencement of such construction, was improved with a nonresidential building or buildings and was under-utilized, the under-utilization of the land must have been such that each building or buildings:

(1) contained no more than the permissible floor area ratio for nonresidential buildings in the zoning district in question and either (i) had a floor area ratio which was seventy-five percent or less of the maximum floor area ratio for residential buildings in such zoning district, or (ii) if the land was not zoned to permit residential use on the date thirty-six months prior to the commencement of construction, had a floor area ratio which was seventy-five percent or less of the floor area ratio of the residential building which replaces such non-residential building, or

(2) had an assessed valuation equal to or less than seventy-five percent of the assessed valuation of the land on which the building or buildings were situated, or

(3) by reason of the configuration of the building, or substantial structural defects not brought about by deferred maintenance practices or intentional conduct, could no longer be functionally or economically utilized in the capacity in which it was formerly utilized. For purposes of this subdivision, construction shall be deemed to have commenced as provided in subdivision (a) of this section.

(a-4) Where eligibility for benefits under section four hundred twenty-one-a of the real property tax law is sought for any construction on any tax lot now existing or hereafter created which is located south of or adjacent to either side of one hundred tenth street in the borough of Manhattan which construction commenced on or after the effective date of the local law that added this subdivision on the basis that such construction shall take place on land which, on the date thirty-six months prior to the commencement of such construction, was improved with a nonresidential building or buildings and was under-utilized, the under-utilization of the land must have been such that each building or buildings:

(1) contained no more than the permissible floor area ratio for nonresidential buildings in the zoning district in question and either (i) had a floor area ratio which was fifty percent or less of the maximum floor area ratio for residential buildings in such zoning district, or (ii) if the land was not zoned to permit residential use on the date thirty-six months prior to the commencement of construction, had a floor area ratio which was fifty percent or less of the floor area ratio of the residential building which replaces such non-residential building, or

(2) had an assessed valuation equal to or less than fifty percent of the assessed valuation of the land on which the building or buildings were situated, or

(3) by reason of the configuration of the building, or substantial structural defects not brought about by deferred maintenance practices or intentional conduct, could no longer be functionally or economically utilized in the capacity in which it was formerly utilized. For purposes of this subdivision, construction shall be deemed to have commenced as provided in subdivision (a) of this section.

(b) The department of housing preservation and development may promulgate rules and regulations for the effectuation of the purposes of this section.

(c) The limitations on benefits contained in this section shall be in addition to those contained in any other law or regulation.

#### **§ 11-245.1-a Boundary review commission.\***

\* **Editor's note:** this § 11-245.1-a was enacted by L.L. 2006/58 § 6, 12/28/2006, eff. 12/28/2007. Section 12 of that local law provides in part that "sections one through eight of this local law shall expire four years after their enactment."

(a) There shall be established a boundary review commission consisting of eleven members, including the commissioner of finance, the commissioner of housing preservation and development, the commissioner of buildings, the chairperson of the department of city planning, the director of the office of management and budget, the executive director of the board of standards and appeals and five members chosen by the speaker of the council. The appointees of the speaker of the council shall serve at the pleasure of the speaker. The commission shall elect a chairperson from among its members.

(b) The boundary review commission shall undertake a biennial review of the tax benefit program established pursuant to section four hundred twenty-one-a of the real property tax law to determine whether the areas for which the tax benefits are restricted pursuant to those provisions of the administrative code which relate to such program should be revised in any manner.

(c) In conducting a review to determine whether geographic exclusion zones restricting benefits provided pursuant to section four hundred twenty-one-a of the real property tax law should be revised, the commission shall review measures of housing activity and housing market conditions throughout the city including (i) the amount of new development; (ii) values in land sales, residential sales prices and rents; (iii) trends in land sales, residential sales prices and rents and other development trend data including land use trends, lot consolidation and board of standards and appeals actions; (iv) development potential; (v) relationship between volume of potential development and existing housing; and (vi) financial feasibility of development with and without the benefits provided pursuant to section four hundred twenty-one-a of the real property tax law.

(d) On or before December first of each even numbered year following the enactment of the local law that added this section, such commission shall submit a report to the speaker of the council and the mayor on its deliberations and shall include recommendations for revisions to such boundaries that it deems appropriate or why no revisions were recommended, including the methodology by which it applied the criteria in subdivision c of this section to arrive at its recommendations, and all data used to make such recommendations. Any recommendations shall be consistent with the provisions of section four hundred twenty-one-a of the real property tax law.

#### **§ 11-245.1-b Limitations on benefits pursuant to section four hundred twenty-one-a of the real property tax law.\***

\* **Editor's note:** this § 11-245.1-b was enacted by L.L. 2006/58 § 7, 12/28/2006, eff. 12/28/2007. Section 12 of that local law provides in part that "sections one through eight of this local law shall expire four years after their enactment."

(a) As used in this section, the following terms shall have the following meanings:

(1) "Residential tax lot" shall mean a tax lot that contains dwelling units.

(2) "Non-residential tax lot" shall mean a tax lot that does not contain any dwelling units.

(3) "Annual limit" shall mean sixty-five thousand dollars, which amount shall be increased by three percent, compounded annually, on each taxable status date following the first anniversary of the effective date of the local law that added this section.



(4) "Certificate of occupancy" shall mean the first certificate of occupancy covering all residential areas of the building on or containing a tax lot.

(5) "Unit count" shall mean (i) in the case of a residential tax lot that does not contain any commercial, community facility or accessory use space, the number of dwelling units in such tax lot, and (ii) in the case of a residential tax lot that contains commercial, community facility or accessory use space, the number of dwelling units in such tax lot plus one.

(6) "Exemption cap" shall mean the unit count multiplied by the annual limit.

(b) The provisions of this section shall apply only to projects that commence construction on or after the effective date of the local law that added this section.

(c) No benefits under section four hundred twenty-one-a of the real property tax law shall be conferred for any multiple dwelling containing fewer than four dwelling units, as set forth in the certificate of occupancy, unless the construction of such multiple dwelling is carried out with substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality where such assistance is provided pursuant to a program for the development of affordable housing.

(d) The portion of the assessed valuation of any residential tax lot exempted from real property taxation in any year pursuant to section four hundred twenty-one-a of the real property tax law shall not exceed the exemption cap on or after the first taxable status date after the building on or containing such tax lot receives its certificate of occupancy unless, in accordance with a regulatory agreement with or approved by the department of housing preservation and development that is applicable to such tax lot, (1) the construction of such building is carried out with substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality and such assistance is provided pursuant to a program for the development of affordable housing, or (2) the department of housing preservation and development has imposed a requirement or has certified that twenty per cent of the units be restricted income units. All such restricted income units must be situated onsite. For the purposes of this section, "onsite" shall mean that restricted income units shall be situated within the building or buildings for which benefits pursuant to section four hundred twenty-one-a of the real property tax law are being granted. A dwelling unit that is located in two or more tax lots shall be ineligible to receive any benefits under section four hundred twenty-one-a of the real property tax law. The portion of the assessed valuation of all non-residential tax lots in the building on or containing such non-residential tax lots exempted from real property taxation in any year pursuant to section four hundred twenty-one-a of the real property tax law shall not exceed a cumulative total equal to the annual limit on or after the first taxable status date after the building on or containing such non-residential tax lots receives its certificate of occupancy.

(e) A new multiple dwelling that is situated in (1) a neighborhood preservation program area as determined by the department of housing preservation and development as of June first, nineteen hundred eighty-five, (2) a neighborhood preservation area as determined by the New York city planning commission as of June first, nineteen hundred eighty-five, (3) an area that was eligible for mortgage insurance provided by the rehabilitation mortgage insurance corporation as of May first, nineteen hundred ninety-two, or (4) an area receiving funding for a neighborhood preservation project pursuant to the neighborhood reinvestment corporation act (42 U.S.C. § 8101, et seq.) as of June first, nineteen hundred eighty-five, shall only be eligible for the benefits available pursuant to subparagraph (iii) of paragraph (a) of subdivision two of section four hundred twenty-one-a of the real property tax law if:

a. the construction is carried out with substantial assistance of grants, loans or subsidies from any federal, state or local agency or instrumentality and such assistance is provided pursuant to a program for the development of affordable housing, or

b. the department of housing preservation and development has imposed a requirement or has certified that twenty percent of the units be restricted income units. All such restricted income units must be situated onsite.

(f) The department of housing preservation and development may promulgate rules and regulations to effectuate the purposes of this section.

(g) The limitations on eligibility for benefits contained in this section shall be in addition to those contained in any other law, rule or regulation.

(h) Notwithstanding anything to the contrary contained herein, the limitations on eligibility for benefits contained in this section shall not apply to a covered project as defined in subparagraph (i) of paragraph a of subdivision six of section four hundred twenty-one-a of the real property tax law.

### **§ 11-245.2 Exemption for real property of certain water-works corporations.**

Real property owned by a water-works corporation subject to the provisions of the public service law and used exclusively for the sale, furnishing and distribution of water for domestic, commercial and public purposes, shall not be taxable.

### **§ 11-245.3 Exemption for persons sixty-five years of age or over.**

1. Real property owned by one or more persons, each of whom is sixty-five years of age or over, or real property owned by husband and wife or by siblings, one of whom is sixty-five years of age or over, or real property owned by one or more persons, some of whom qualify under this section and section 11-245.4 of this part shall be exempt from taxes on real estate to the extent of fifty per centum of the assessed valuation thereof. For the purposes of this section, siblings shall mean a brother or a sister, whether related through halfblood, whole blood or adoption.

2. Exemption from taxation for school purposes shall not be granted in the case of real property where a child resides if such child attends a public school of elementary or secondary education.

3. No exemption shall be granted:

(a) if the income of the owner or the combined income of the owners of the property exceeds the sum of twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, twenty-nine thousand dollars beginning July first, two thousand nine, and fifty thousand dollars beginning July first, two thousand seventeen for the income tax year immediately preceding the date of making application for exemption. Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property as provided in subparagraph (ii) of paragraph (d) of this subdivision, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include gifts, inheritances, a return of capital, payments made to individuals because of their status as victims of Nazi persecution as defined in P.L. 103-286, monies earned through employment in the federal foster grandparent program, and veterans disability compensation as defined in Title 38 of the United States Code, and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;

(b) unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twelve consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months, and provided further, that in the event of a transfer by either husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferer spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months, and provided further, that where property of the owner or owners has been acquired to replace

property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, and where a residence is sold and replaced with another within one year and both are within the state, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where the owner of owners transfer title to property which as of the date of transfer was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months shall be deemed satisfied;

(c) unless the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section;

(d) unless the property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property; except where, (i) an owner is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall be income only to the extent that it exceeds the amount paid by such owner, spouse, or co-owner for care in the facility, and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or, (ii) the real property is owned by a husband and/or wife, or an ex-husband and/or an ex-wife, and either is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be sixty-two years of age or over.

4. Application for such exemption must be made by the owner, or all of the owners of the property, on forms prescribed by the state board to be furnished by the department of finance and shall furnish the information and must be executed in the manner required or prescribed in such form and shall be filed in the department of finance in the borough in which the real property is located between the fifteenth day of January and the fifteenth day of March. Notwithstanding any other provision of law, any person otherwise qualifying under this section shall not be denied the exemption under this section if he or she becomes sixty-five years of age after the taxable status date and on or before December thirty-first of the same year.

5. At least sixty days prior to the fifteenth day of January the department of finance shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed between the fifteenth day of January and the fifteenth day of March every two years from the year in which such exemption was granted and be approved in order for the exemption to be granted. The department of finance shall, within three days of the completion and filing of the tentative assessment roll, notify by mail any applicant who has included with his application at least one self-addressed, prepaid envelope, of the approval or denial of the application; provided, however, where an applicant has included two such envelopes, the department of finance shall, upon the filing of the application, send by mail, notice of receipt of that application. Where an applicant is entitled to notice of denial provided herein, such notice shall state the reasons for such denial and shall further state that such determination is reviewable in a manner provided by law. Failure to mail any such application form or notices or the failure of such person to receive any or all of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

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 and shall disqualify the applicant or applicants from further exemption for a period of five years.

7. Notwithstanding the maximum income exemption eligibility level provided in subdivision three of this section, an exemption, subject to all other provisions of this section, shall be granted as indicated in the following schedule:

Annual Income as of July 1, 2006	Percentage Assessed Valuation Exempt From Taxation
More than \$26,000 but less than \$27,000	45 per centum
\$27,000 or more but less than \$28,000	40 per centum
\$28,000 or more but less than \$29,000	35 per centum
\$29,000 or more but less than \$29,900	30 per centum
\$29,900 or more but less than \$30,800	25 per centum
\$30,800 or more but less than \$31,700	20 per centum
\$31,700 or more but less than \$32,600	15 per centum
\$32,600 or more but less than \$33,500	10 per centum
\$33,500 or more but less than \$34,400	5 per centum

Annual Income as of July 1, 2007	Percentage Assessed Valuation Exempt From Taxation
More than \$27,000 but less than \$28,000	45 per centum
\$28,000 or more but less than \$29,000	40 per centum
\$29,000 or more but less than \$30,000	35 per centum
\$30,000 or more but less than \$30,900	30 per centum
\$30,900 or more but less than \$31,800	25 per centum
\$31,800 or more but less than \$32,700	20 per centum
\$32,700 or more but less than \$33,600	15 per centum
\$33,600 or more but less than \$34,500	10 per centum
\$34,500 or more but less than \$35,400	5 per centum

Annual Income as of July 1, 2008	Percentage Assessed Valuation Exempt From Taxation
More than \$28,000 but less than \$29,000	45 per centum
\$29,000 or more but less than \$30,000	40 per centum
\$30,000 or more but less than \$31,000	35 per centum
\$31,000 or more but less than \$31,900	30 per centum
\$31,900 or more but less than \$32,800	25 per centum
\$32,800 or more but less than \$33,700	20 per centum
\$33,700 or more but less than \$34,600	15 per centum
\$34,600 or more but less than \$35,500	10 per centum
\$35,500 or more but less than \$36,400	5 per centum

Annual Income as of July 1, 2009	Percentage Assessed Valuation Exempt From Taxation
More than \$29,000 but less than \$30,000	45 per centum
\$30,000 or more but less than \$31,000	40 per centum
\$31,000 or more but less than \$32,000	35 per centum
\$32,000 or more but less than \$32,900	30 per centum
\$32,900 or more but less than \$33,800	25 per centum
\$33,800 or more but less than \$34,700	20 per centum
\$34,700 or more but less than \$35,600	15 per centum
\$35,600 or more but less than \$36,500	10 per centum
\$36,500 or more but less than \$37,400	5 per centum

Annual Income as of July 1, 2017	Percentage Assessed Valuation Exempt From Taxation
More than \$50,000 but less than \$51,000	45 per centum
\$51,000 or more but less than \$52,000	40 per centum
\$52,000 or more but less than \$53,000	35 per centum
\$53,000 or more but less than \$53,900	30 per centum
\$53,900 or more but less than \$54,800	25 per centum
\$54,800 or more but less than \$55,700	20 per centum
\$55,700 or more but less than \$56,600	15 per centum
\$56,600 or more but less than \$57,500	10 per centum
\$57,500 or more but less than \$58,400	5 per centum

8. Any exemption provided by this section shall be computed after all partial exemptions allowed by law have been subtracted from the total amount assessed.

9. Exemption from taxation as provided in this section on real property owned by husband and wife, one of whom is sixty-five years of age or older, once granted, shall not be rescinded solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age.

10. a. For the purposes 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 or 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. That proportion of the assessment of real property owned by a cooperative apartment corporation, determined by the relationship of such real property vested in such tenant-stockholder to such entire parcel and the buildings thereon owned by such cooperative apartment corporation in which such tenant-stockholder resides, shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the department of finance against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder. Each cooperative apartment corporation shall notify each tenant-stockholder in residence thereof of such provisions as are set forth in this section.

b. Notwithstanding any other provision of law, a tenant-stockholder who resides in a dwelling which is subject to the provisions of either article II, IV, V or XI of the private housing finance law and who is eligible for a rent increase exemption pursuant to chapter seven of title twenty-six of this code shall not be eligible for an exemption pursuant to this subdivision. Notwithstanding any other provision of law, a tenant-stockholder who resides in a dwelling which is subject to the provisions of either article II, IV, V or XI of the private housing finance law and who is not eligible for a rent increase exemption pursuant to chapter seven of title twenty-six of this code but who meets the requirements for eligibility for an exemption pursuant to this section shall be eligible for such exemption provided that such exemption shall be in an amount determined by multiplying the exemption otherwise allowable pursuant to this section by a fraction having a numerator equal to the amount of real property taxes or payments in lieu of taxes that were paid with respect to such dwelling and a denominator equal to the full amount of real property taxes that would have been owed with respect to such dwelling had it not been granted an exemption or abatement of real property taxes pursuant to any provision of law, provided, however, that any reduction in real property taxes received with respect to such dwelling pursuant to chapter seven of title twenty-six of this code or pursuant to this section shall not be considered in calculating such numerator. Any tenant-stockholder who resides in a dwelling which was or continues to be subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, and who is eligible for both a rent increase exemption pursuant to chapter seven of title twenty-six of this code and an exemption pursuant to this subdivision, may apply for and receive

either a rent increase exemption pursuant to such chapter or an exemption pursuant to this subdivision, but not both.

11. *Exemption Option.* Notwithstanding any provision of this part to the contrary, real property owned by one or more persons where one of such owners qualifies for a real property tax exemption pursuant to this section or section 11-245.4 of this part, and another of such owners qualifies for a different tax exemption pursuant to such sections of this part as authorized by state law, such owners shall have the option of choosing the one exemption which is most beneficial to such owners. Such owners shall not be prohibited from taking one such exemption solely on the basis that such owners qualify for more than one exemption and therefore are not eligible for any exemptions.

(Am. L.L. 2017/140, 8/25/2017, eff. 8/25/2017)

**Editor's note:** For related unconsolidated provisions, see Appendix A at L.L. 2017/140.

**§ 11-245.4 Exemption for persons with disabilities.**

1. (a) 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 section 11-245.3 of this part, and whose income, as hereafter defined, is limited by reason of such disability, shall be exempt from taxes on real estate to the extent of fifty per centum of the assessed valuation thereof as hereinafter provided. For purposes of this section, sibling shall mean a brother or a sister, whether related through half blood, whole blood or adoption.

(b) For purposes of this section, a person with a disability is one who has a physical or mental impairment, not due to current use of alcohol or illegal drug use, which substantially limits such person's ability to engage in one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, and who (i) is certified to receive social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal social security act, or (ii) is certified to receive railroad retirement disability benefits under the federal railroad retirement act, or (iii) has received a certificate from the state commission for the blind and visually handicapped stating that such person is legally blind, or (iv) is certified to receive a United States postal service disability pension. An award letter from the social security administration or the railroad retirement board or a certificate from the state commission for the blind and visually handicapped or an award letter from the United States postal service shall be submitted as proof of disability.

2. Exemption from taxation for school purposes shall not be granted in the case of real property where a child resides if such child attends a public school of elementary or secondary education.

3. No exemption shall be granted:

(a) if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, twenty-nine thousand dollars beginning July first, two thousand nine, and fifty thousand dollars beginning July first, two thousand seventeen. Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;

(b) unless the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section;

(c) unless the real property is the legal residence of and is occupied in whole or in part by the disabled person; except where the disabled person is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall be considered income for purposes of this section only to the extent that it exceeds the amount paid by such person or spouse or sibling of such person for care in the facility.

4. Application for such exemption must be made annually by the owner, or all of the owners of the property, on forms prescribed by the state board, and shall be filed with the department of finance on or before the fifteenth day of March of the appropriate year; provided, however, proof of a permanent disability need be submitted only in the year exemption pursuant to this section is first sought or the disability is first determined to be permanent.

5. At least sixty days prior to the fifteenth day of March of the appropriate year, the department of finance shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before the fifteenth day of March and be approved in order for the exemption to continue to be granted. Failure to mail such application form or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

6. Notwithstanding the maximum income exemption eligibility level provided in subdivision three of this section, an exemption, subject to all other provisions of this section, shall be granted as indicated in the following schedule:

Annual Income as of July 1, 2006	Percentage Assessed Valuation Exempt From Taxation
More than \$26,000 but less than \$27,000	45 per centum
\$27,000 or more but less than \$28,000	40 per centum
\$28,000 or more but less than \$29,000	35 per centum
\$29,000 or more but less than \$29,900	30 per centum
\$29,900 or more but less than \$30,800	25 per centum
\$30,800 or more but less than \$31,700	20 per centum
\$31,700 or more but less than \$32,600	15 per centum
\$32,600 or more but less than \$33,500	10 per centum
\$33,500 or more but less than \$34,400	5 per centum

Annual Income as of July 1, 2007	Percentage Assessed Valuation Exempt From Taxation
More than \$27,000 but less than \$28,000	45 per centum
\$28,000 or more but less than \$29,000	40 per centum
\$29,000 or more but less than \$30,000	35 per centum
\$30,000 or more but less than \$30,900	30 per centum
\$30,900 or more but less than \$31,800	25 per centum
\$31,800 or more but less than \$32,700	20 per centum
\$32,700 or more but less than \$33,600	15 per centum
\$33,600 or more but less than \$34,500	10 per centum
\$34,500 or more but less than \$35,400	5 per centum

Annual Income as of July 1, 2008	Percentage Assessed Valuation Exempt From Taxation
More than \$28,000 but less than \$29,000	45 per centum
\$29,000 or more but less than \$30,000	40 per centum
\$30,000 or more but less than \$31,000	35 per centum
\$31,000 or more but less than \$31,900	30 per centum
\$31,900 or more but less than \$32,800	25 per centum
\$32,800 or more but less than \$33,700	20 per centum
\$33,700 or more but less than \$34,600	15 per centum
\$34,600 or more but less than \$35,500	10 per centum
\$35,500 or more but less than \$36,400	5 per centum

Annual Income as of July 1, 2009	Percentage Assessed Valuation Exempt From Taxation
More than \$29,000 but less than \$30,000	45 per centum
\$30,000 or more but less than \$31,000	40 per centum
\$31,000 or more but less than \$32,000	35 per centum
\$32,000 or more but less than \$32,900	30 per centum
\$32,900 or more but less than \$33,800	25 per centum
\$33,800 or more but less than \$34,700	20 per centum
\$34,700 or more but less than \$35,600	15 per centum
\$35,600 or more but less than \$36,500	10 per centum
\$36,500 or more but less than \$37,400	5 per centum

Annual Income as of July 1, 2017	Percentage Assessed Valuation Exempt From Taxation
More than \$50,000 but less than \$51,000	45 per centum
\$51,000 or more but less than \$52,000	40 per centum
\$52,000 or more but less than \$53,000	35 per centum
\$53,000 or more but less than \$53,900	30 per centum
\$53,900 or more but less than \$54,800	25 per centum
\$54,800 or more but less than \$55,700	20 per centum
\$55,700 or more but less than \$56,600	15 per centum
\$56,600 or more but less than \$57,500	10 per centum
\$57,500 or more but less than \$58,400	5 per centum

7. Any exemption provided by this section shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed; provided, however, that no parcel may receive an exemption pursuant to both this section and section 11-245.3.

8. (a) For purposes 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 or 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. That proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such entire parcel and the buildings thereon owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the department of finance against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be

credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

(b) Notwithstanding any other provision of law, a tenant-stockholder who resides in a dwelling which is subject to the provisions of either article II, IV, V or XI of the private housing finance law shall not be eligible for an exemption pursuant to this subdivision.

9. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to subdivision one of this section, were such person or persons the owner or owners of such real property.

10. *Exemption Option.* Notwithstanding any provision of this part to the contrary, real property owned by one or more persons where one of such owners qualifies for a real property tax exemption pursuant to this section or section 11-245.3 of this part, and another of such owners qualifies for a different tax exemption pursuant to such sections of this part as authorized by state law, such owners shall have the option of choosing the one exemption which is most beneficial to such owners. Such owners shall not be prohibited from taking one such exemption solely on the basis that such owners qualify for more than one exemption and therefore are not eligible for any exemptions.

(Am. L.L. 2017/140, 8/25/2017, eff. 8/25/2017)

**Editor's note:** For related unconsolidated provisions, see Appendix A at L.L. 2017/140.

### **§ 11-245.45 Exemption for veterans.**

Pursuant to paragraph (d) of subdivision eight of section four hundred fifty-eight of the real property tax law, the city hereby authorizes real property owned by a cooperative apartment corporation to be exempt from taxation in accordance with such section and any local laws adopted pursuant to such section beginning July first, nineteen hundred ninety-eight.

### **§ 11-245.46 Exemption for veterans; taxes for school purposes exempted.**

Pursuant to paragraph (3) of subdivision one of section four hundred fifty-eight of the real property tax law, the city hereby provides that the exemption authorized pursuant to such section shall be applicable to taxes for school purposes.

(L.L. 2017/253, 12/17/2017, eff. 1/1/2018)

### **§ 11-245.5 Alternative exemption for veterans.**

Pursuant to paragraph (d) of subdivision six of section four hundred fifty-eight-a of the real property tax law, the city hereby authorizes real property owned by a cooperative apartment corporation to be exempt from taxation in accordance with such section and any local laws adopted pursuant to such section beginning July first, nineteen hundred ninety-eight.

### **§ 11-245.6 Alternative exemption for veterans; maximum exemptions allowable.**

Pursuant to subparagraph (ii) of paragraph (d) of subdivision two of section four hundred fifty-eight-a of the real property tax law, the city hereby increases the maximum exemptions allowable in paragraphs (a), (b) and (c) of subdivision two of section four hundred fifty-eight-a of the real property tax law. The maximum exemption allowable in such paragraph (a) shall be fifteen percent of the assessed value of the qualifying residential real property; provided, however, that such exemption shall not exceed \$48,000 or the product of \$48,000 multiplied by the latest class ratio, whichever is less. In addition to the exemption provided by such paragraph (a), as increased by this section, the maximum exemption allowable in such paragraph (b) shall be ten percent of the assessed value of the qualifying residential real property; provided, however, that such exemption shall not exceed \$32,000 or the product of \$32,000 multiplied by the latest class ratio, whichever is less. In addition to the exemptions provided by such paragraphs (a) and (b), as increased by this section, the maximum exemption allowable in such paragraph (c) shall be the product of the assessed value of the qualifying residential real property multiplied by fifty percent of the veteran's disability rating; provided, however, that such exemption shall not exceed \$160,000 or the product of \$160,000 multiplied by the latest class ratio, whichever is less. The maximum exemptions allowable in such paragraphs (a), (b) and (c), as increased by this section, shall not apply to any assessment roll completed and filed prior to the first day of January, two thousand six.

(Am. L.L. 2017/128, 7/22/2017, eff. 7/1/2017; Am. L.L. 2021/079, 7/18/2021, eff. 7/18/2021)

\* **Editor's note:** For related unconsolidated provisions, see Appendix A at L.L. 2017/124 and L.L. 2021/079.

### **§ 11-245.7 Alternative exemption for veterans; gold star parent.**

Pursuant to paragraph (b) of subdivision seven of section four hundred fifty-eight-a of the real property tax law, and in accordance with such section and any local laws adopted pursuant thereto, the city hereby includes a gold star parent within the definition of "qualified owner" as provided in paragraph (c) of subdivision one of such section, and includes property owned by a gold star parent within the definition of "qualifying residential real property" as provided in paragraph (d) of subdivision one of such section, provided that such property is the primary residence of the gold star parent.

### **§ 11-245.75 Alternative exemption for veterans; school district taxation exempted.**

Pursuant to subparagraph (i) of paragraph (d) of subdivision two of section four hundred fifty-eight-a of the real property tax law, the city hereby provides that the exemptions allowable in paragraphs (a), (b) and (c) of subdivision two of section four hundred fifty-eight-a of the real property tax law shall be applicable to school district taxation.

(L.L. 2017/120, 7/22/2017, eff. 7/1/2017; Am. L.L. 2021/079, 7/18/2021, eff. 7/18/2021)

**Editor's note:** For related unconsolidated provisions, see Appendix A at L.L. 2017/120 and L.L. 2021/079.

### **§ 11-245.8 Notice of residential property tax exemptions.**

a. The commissioner of finance or his or her designee, shall provide a notice relating to the lien sale process to all property owners, included with the notice of value sent to property owners by the department of finance pursuant to section 1511 of the New York city charter and, in addition, no later than October thirty-first of each year, to any property owner who is delinquent in the payment of any real property taxes, assessments, or any other charges that are made a lien subject to the provisions of chapter three of this title, except sewer rents, sewer charges and water rents, if such delinquency, in the aggregate, equals or exceeds the sum of one thousand dollars. This notice shall include, but not be limited to, actions homeowners can take if a lien is sold on such property; the type of debt that can be sold in a lien sale; a timeline of statutory notifications required pursuant to section 11-320 of this title; a clear, concise explanation of the consequences of the sale of a tax lien; the telephone number and electronic mail address of the employee or employees designated pursuant to subdivision f of section 11-320 of this title; a conspicuous statement that an owner of any class of property may enter into a payment plan for the satisfaction of delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, and any other charges that are made a lien subject to the provisions of chapter three of this title, or exclusion from the tax lien sale; credits and property tax exemptions that may exclude certain class one real property from a tax lien sale; and clear and concise instructions on how an owner of any class of property may register to receive information from the department, through electronic mail, regarding outreach sessions relating to the sale of tax liens conducted pursuant to subdivision j of section 11-320 of this title. Such notice shall also include information on the following real property tax credits or real property tax exemptions:

1. the senior citizen homeowner exemption pursuant to section 11-245.3 of this chapter;

2. the exemption for persons with disabilities pursuant to section 11-245.4 of this chapter;
  3. the exemptions for veterans pursuant to sections four hundred fifty-eight and four hundred fifty eight-a of the real property tax law;
  4. the school tax relief (STAR) exemption pursuant to section four hundred twenty-five of the real property tax law;
  5. the enhanced school tax relief (STAR) exemption pursuant to subdivision four of section four hundred twenty-five of the real property tax law;
  6. the state circuit breaker income tax credit pursuant to subsection (e) of section six hundred six of the tax law; and
  7. any other credit or residential real property tax exemption, which, in the discretion of the commissioner, should be included in such notice. Upon such property owner's written request, or verbal request to 311 or any employee designated pursuant to subdivision f of section 11-320 of this title, a Chinese, Korean, Russian or Spanish translation of such notice shall be provided promptly to such property owner.
- b. The notice required pursuant to this section shall include:
1. a brief description of each exemption program; and
  2. a phone number at the department and a website address where taxpayers can obtain additional information on the exemption programs and all necessary forms and applications.
- c. The notice that is required, pursuant to this section, to be provided by the commissioner of finance or his or her designee no later than October thirty-first of each year shall include contact information for the office of financial empowerment at the department of consumer and worker protection.
- (Am. L.L. 2017/004, 1/27/2017, eff. 1/27/2017; Am. L.L. 2020/080, 8/28/2020, eff. 8/28/2020; Am. L.L. 2021/024, 2/28/2021, retro. eff. 1/1/2021)

**Editor's note:** For related unconsolidated provisions, see Appendix A at L.L. 2020/080.

### **§ 11-245.9 Alternative exemption for veterans; transfer of title.**

1. Pursuant to subdivision eight of section four hundred fifty-eight-a of the real property tax law, where a veteran, the spouse of the veteran or unremarried surviving spouse already receiving an exemption pursuant to such section sells the property receiving such exemption and purchases property within the city, the department of finance shall transfer and prorate, for the remainder of the fiscal year, the exemption received. The prorated exemption shall be based upon the date the veteran, the spouse of the veteran or unremarried surviving spouse obtains title to the new property and shall be calculated by multiplying the tax rate for which taxes were levied, on the appropriate tax roll used for the fiscal year during which the transfer occurred, multiplied by the previously granted exempt amount, multiplied by the fraction of each fiscal year remaining subsequent to the transfer of title.
2. Nothing in this section shall be construed to remove the requirement that any such veteran, the spouse of the veteran or unremarried surviving spouse transferring an exemption pursuant to subdivision one of this section shall reapply for the exemption authorized pursuant to section four hundred fifty-eight-a of the real property tax law on or before the following taxable status date, in the event such veteran, the spouse of the veteran or unremarried surviving spouse wishes to receive the exemption in future fiscal years.

### **§ 11-245.10 ENERGY STAR appliances.**

- a. For the purposes of this section, the following definitions shall apply in conjunction with the definitions found in sections 27-232 and 27-2004 of this code:
- (1) The term "ENERGY STAR" shall mean a designation from the United States environmental protection agency or department of energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the ENERGY STAR program.
  - (2) The term "household appliance" shall mean any refrigerator, room air conditioner, dishwasher or clothes washer, within a dwelling unit in a multiple dwelling that is provided by the owner of such multiple dwelling. This definition shall also include any boiler or furnace that provides heat or hot water for any dwelling unit in a multiple dwelling.
- b. For any building for which any benefit is conferred pursuant to four hundred eighty-nine of the real property tax law, whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in a multiple dwelling, is installed or replaced with a new household appliance, such new appliance shall be certified as Energy Star.
- c. For any building for which any benefit is conferred pursuant to section four hundred twenty-one-a of the real property tax law, whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in a multiple dwelling, is installed or replaced with a new household appliance, such new appliance shall be certified as Energy Star.
- d. The commissioner may enact rules requiring additional energy conservation measures for any building for which any benefit is conferred pursuant to section four hundred eighty-nine of the real property tax law or section four hundred twenty-one-a of the real property tax law.
- e. The commissioner shall inform applicants for any benefits affected by this section of the requirements of this section.
- f. The requirements of subdivisions b and c of this section shall not apply where:
- (1) an ENERGY STAR certified household appliance of appropriate size is not manufactured, such that movement of walls or fixtures would be necessary to create sufficient space for such appliance; or
  - (2) an ENERGY STAR certified boiler or furnace of sufficient capacity is not manufactured.

(Am. L.L. 2017/004, 1/27/2017, eff. 1/27/2017)

## **Part 2: Exemption For Certain Nonprofit Organizations**

### **§ 11-246 Taxation of property of nonprofit organizations, pharmaceutical societies and dental societies.**

1. a. Pursuant to the requirements of sections four hundred twenty-a and four hundred forty-six of the real property tax law, real property owned by a corporation or association which is organized or conducted exclusively for religious, charitable, hospital, educational or cemetery purposes, or for the purposes of the moral or mental improvement of men, women or children or for two or more such purposes shall not be taxable.
- b. Real property owned by a corporation or association which is organized or conducted exclusively for Bible, tract, benevolent, missionary, infirmary, public playground, scientific, literary, library, patriotic or historical purposes, for the development of good sportsmanship for persons under the age of eighteen years through the conduct of supervised athletic games, or for the enforcement of laws relating to children or animals, or for two 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 provided in section four hundred twenty-b of the real property tax law shall not be taxable. Any corporation or association which uses real property exempted from taxation pursuant to this paragraph shall make available to the city council, the commissioner of finance and the public a report, in such form as may be prescribed by the commissioner of finance, setting forth the efforts of such corporation or association undertaken in the previous calendar year to provide assistance to city programs and city residents, by filing such report with the city clerk not later than June first of each year.

c. Real property owned by a corporation or association which is organized or conducted exclusively for bar association or medical society purposes, or both such purposes, and used exclusively for carrying out thereupon one or both such purposes either by the owning corporation or association, or by another such corporation or association shall be taxable pursuant to the authority contained in section four hundred twenty-b of the real property tax law.

2. Real property from which no rent is derived and which is owned by an incorporated pharmaceutical society which is either wholly or partly within the city, which society has heretofore been or may hereafter be authorized and empowered by act of the legislature to establish and which has established or may hereafter establish a college of pharmacy in this city shall be taxable.

3. Real property from which no income is derived which is owned by a dental society of any judicial district which judicial district is wholly or partly within the city, which dental society was incorporated under the education law shall be taxable.

4. Real property previously exempt from taxation but made taxable pursuant to this section as of the first day of January, nineteen hundred seventy-two shall be taxed for the period from the first day of January to and including the thirtieth day of June, nineteen hundred seventy-two by applying one-half of the tax rate for the fiscal year nineteen hundred seventy-one, seventy-two to the assessments made and exemptions claimed with reference to the taxable status date falling on the twenty-fifth day of January, nineteen hundred seventy-two. The taxes thus computed for the period from the first day of January to and including the thirtieth day of June, nineteen hundred seventy-two shall be due and payable on the first day of June, nineteen hundred seventy-two.

5. Real property which is taxable under this section shall be subject to any special ad valorem levies and special assessments which are imposed to defray the cost of improvements or services furnished by the city.

### **§ 11-246.1 [Information provided to property owner.]**

The commissioner of finance shall include, in any written communication with a property owner related to the denial of a real property tax exemption pursuant to section four hundred twenty-a, four hundred twenty-b, four hundred forty-six, or four hundred sixty-two of the real property tax law, information on actions a property owner can take, upon notice of a sale of a tax lien of property of such owner, that may prevent the sale of such tax lien.

(L.L. 2020/042, 3/29/2020, eff. 9/25/2020)

## **Part 3: Tax Exemption For Certain Industrial and Commercial Properties**

### **§ 11-247 Definitions.**

When used in this part:

a. "Applicant" means any person or corporation obligated to pay real property taxes on the property for which an exemption is sought, or in the case of exempt property, the record owner thereof, provided, however, that such property is not commercial property located in an area designated as excluded pursuant to section 11-249 of this part;

b. "Board" means the industrial and commercial incentive board;

c. "Commercial" means any non-residential property used primarily for the buying, selling or otherwise providing of goods or services, provided that the use of such property has not been designated as a restricted commercial use pursuant to section 11-249 of this part;

d. "Construction" means the building of new industrial or commercial structures on vacant or predominantly vacant land, or the modernization, rehabilitation or expansion or other improvements of an existing commercial structure where such modernization, rehabilitation, expansion or other improvement is not physically or functionally integrated with the existing structure or results in additional usable square footage fifty per centum greater than the square footage of the existing structure;

e. "Industrial" means property used primarily for the manufacturing or assembling of goods or the processing of raw materials;

f. "Predominantly vacant land" means land, including land under water, on which not more than fifteen percent of the lot area contains enclosed, permanent improvements; in addition, such land may include existing foundations. A fence, shed, garage, attendant's booth, paving, pier, bulkhead, lighting fixtures, and similar items, or any improvement having an assessed value of less than two thousand dollars shall not constitute an enclosed, permanent improvement;

g. "Reconstruction" means the modernization, rehabilitation, expansion or other improvement of an existing commercial or industrial structure where the total proposed project cost is in an amount equal to at least twenty per centum of the assessed value of the property at the time an application for a certificate of eligibility pursuant to this part is made, and where such modernization, rehabilitation, expansion or other improvement is physically and functionally integrated with the existing structure and does not create additional usable square footage greater than fifty per centum of the usable square footage of the existing structure except in a case where the existing structure has been substantially destroyed by fire or other casualty;

h. "Residential property" shall mean property, other than property used for hotel purposes, on which will exist upon completion of construction a building or structure containing more than one independent dwelling unit or where more than one-third of the total square footage of said structure is to be used for residential purposes; it shall also mean, in the case of reconstruction, property on which exists or will exist upon completion of the reconstruction a building or structure where more than one-third of the total square footage is used or is to be used for dwelling purposes;

i. "Vacant land" means land, including land under water, which contains no enclosed, permanent improvement. A fence, shed, garage, attendant's booth, paving, pier, bulkhead, lighting fixtures, and similar items, or any improvement having an assessed value of less than two thousand dollars shall not constitute an enclosed, permanent improvement.

### **§ 11-248 Industrial and commercial incentive board.**

There shall be an industrial and commercial incentive board to consist of the deputy mayor for economic policy and development who shall be chairperson of the board, the commissioner of finance, the chairperson of the city planning commission and the director of management and budget, each of whom shall have the power to designate an alternate to represent him or her at board meetings with all the rights and powers, including the right to vote, reserved to all board members, provided that such designation be in writing to the chairperson of the board, and three other members to be appointed by the mayor. In addition, the borough president of each borough or his or her designated representative, shall be a member of such board for the purpose of taking action with respect to property located in his or her borough. The members of the board who shall be agents, officers, or employees of the city shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties. The members of the board who are not agents, officers, or employees of the city shall receive as compensation for their services one hundred dollars per diem, provided, however, that the total compensation paid to any such member shall not exceed twelve hundred dollars for any calendar year. Four members of the board shall constitute a quorum.

### **§ 11-249 Functions, powers and duties of the board; annual designation of exemption areas and restricted commercial uses.**

a. The members of the board shall have the following functions, powers and duties:

1. to receive and review applications for certificates of eligibility pursuant to the charter and pursuant to subdivision thirteen of section 11-604 and subdivision (e) of section 11-503 of this title;



2. to make findings and determinations on the qualifications of applicants for certificates of eligibility pursuant to this part and pursuant to subdivision thirteen of section 11-658 and subdivision (e) of section 11-503 of this title;

3. to issue certificates of eligibility and amendments thereto;

4. to make recommendations to the tax commission on the termination of a tax exemption pursuant to section 11-253 of this part;

5. to designate annually, pursuant to subdivision b of this section, areas in which exemptions for commercial construction or reconstruction shall be granted as of right, areas from which such exemptions shall be excluded and commercial uses for which the granting of exemptions shall be restricted; and

6. to make and promulgate rules and regulations to carry out the purposes of the board.

b. (1) Not later than October first of each year the board shall publish a notice at least once in the official paper or a newspaper of general circulation in the city setting forth:

(i) the proposed boundaries of areas in which commercial construction or reconstruction shall be granted exemptions as of right, proposed boundaries of areas from which exemptions for commercial construction or reconstruction shall be excluded and proposed restricted commercial uses; and

(ii) the date, not earlier than ten nor later than thirty days following the publication of such notice, on which the board will hold a public hearing to hear all persons interested in the designation of such boundaries and restricted commercial uses.

(2) Not earlier than ten nor later than thirty days following the conclusion of the public hearing provided for in paragraph one of this subdivision, the board shall designate the boundaries of areas in which exemptions for commercial construction or reconstruction shall be granted as of right and areas from which such exemptions shall be excluded and shall also designate restricted commercial uses. Such designations shall be made upon the following determinations:

(i) With respect to areas in which exemption for commercial construction or reconstruction shall be granted as of right, the board shall determine that market conditions in each area are such that exemptions are required to attract commercial construction or reconstruction to the area and that attracting such construction or reconstruction, and the granting of exemptions therefor, are in the public interest. In making such determination, the board may consider, among other factors, that the area is experiencing economic distress or is characterized by an unusually large number of vacant, underutilized, unsuitable or substandard structures, or by other substandard, unsanitary, deteriorated or deteriorating conditions, with or without tangible blight, or that commercial development in the area will be beneficial to the city's economy.

(ii) With respect to areas from which exemptions for commercial construction or reconstruction are to be excluded, the board shall determine that market conditions in each area are such that exemptions are not required to attract commercial construction or reconstruction to the area, or that it is not in the public interest to grant exemptions for commercial construction or reconstruction in the area. No applications for exemptions for commercial construction or reconstruction shall be accepted from such areas.

(iii) With respect to restricted commercial uses, the board shall determine that it is not in the public interest to grant exemptions for such uses unless the board further determines that in certain areas designated pursuant to this subdivision, such uses will have an especially positive impact on the area's economy. All applications for exemptions for restricted commercial uses shall be determined pursuant to paragraphs two and three of subdivision b of section 11-251 of this part.

(3) Designations made pursuant to this subdivision shall be effective on the first day of January of each year.

c. So far as practicable and subject to the approval of the mayor, 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 the functions stated in this part. The head of any department or agency shall furnish information in the possession of such department or agency when the board, after consultation with the mayor, so requests.

### **§ 11-250 Real property tax exemption.**

a. A real property tax exemption pursuant to this part shall be granted to an applicant who, within a period of thirty-six months, or following an extension pursuant to section 11-254 of this part within a period of forty-eight months, from the date of issuance of a certificate of eligibility has completed reconstruction or construction work in accordance with the plans approved by the board in the certificate of eligibility. The amount of the tax exemption shall be determined as follows:

(1) In the case of an applicant who has completed industrial construction or reconstruction work, or commercial reconstruction work designated as of right pursuant to section 11-249 of this part or as specially needed pursuant to section 11-251 of this part, the tax exemption shall continue for nineteen tax years in an amount decreasing by five per centum each year from an exemption of ninety-five per centum of the exemption base, as defined in paragraph four of this subdivision.

(2) In the case of an applicant who has completed other commercial reconstruction work, or new commercial construction work designated as of right pursuant to section 11-249 of this part or as specially needed pursuant to section 11-251 of this part, the tax exemption shall continue for ten tax years, in an amount decreasing by five per centum each year from an exemption of fifty per centum of the exemption base.

(3) In the case of an applicant who has completed other new commercial construction work, the exemption shall continue for five tax years in an amount decreasing by ten per centum each year from an exemption of fifty per centum of the exemption base.

(4) The term "exemption base" shall mean the difference between the final assessed value of the property as determined upon completion of the construction or reconstruction work and the lesser of (i) the assessed value of the property at the time an application for certificate of eligibility pursuant to this part is made, or (ii) the assessed value as may thereafter be reduced pursuant to application to the tax commission. The tax exemption shall be computed according to the following tables:

#### **CONSTRUCTION OR RECONSTRUCTION OF INDUSTRIAL STRUCTURES OR RECONSTRUCTION OF AS OF RIGHT OR SPECIALLY NEEDED COMMERCIAL STRUCTURES**

Year following completion of work	Percentage of exemption
1	95
2	90
3	85
4	80
5	75

6	70
7	65
8	60
9	55
10	50
11	45
12	40
13	35
14	30
15	25
16	20
17	15
18	10
19	5

RECONSTRUCTION OF OTHER COMMERCIAL STRUCTURES OR CONSTRUCTION OF AS OF RIGHT OR SPECIALLY NEEDED COMMERCIAL STRUCTURES

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

CONSTRUCTION OF OTHER NEW COMMERCIAL STRUCTURES

Year following completion of work	Percentage of exemption
1	50
2	40
3	30
4	20
5	10

b. The taxes payable during the period from the issuance of a certificate of eligibility to the approval of the tax exemption pursuant to section 11-252 of this part shall be paid on the lesser of:

(1) the assessed value of the property at the time an application for a certificate of eligibility pursuant to this part is made, or

(2) the assessed value as may thereafter be reduced pursuant to application to the tax commission, provided, however, that if reconstruction or construction is not completed in accordance with the plans approved in the certificate of eligibility including any amendments thereto, taxes shall be due and payable retroactively as otherwise required by law.

c. In all cases where the board shall have issued a certificate of eligibility prior to January first, nineteen hundred eighty-two, the exemption percentage shall apply to any subsequent increase in the assessed valuation of the property during the tenure of the exemption. Where the board has issued a certificate of eligibility on or after January first, nineteen hundred eighty-two, the exemption percentage shall apply to any subsequent increase in the assessed valuation of the property during the first two years after approval of the tax exemption pursuant to section 11-252 of this part. Commencing two years after approval of the tax exemption pursuant to section 11-252 of this part, the exemption percentage shall apply to any subsequent increase in assessed valuation of the property only to the extent such increase is attributable to the construction or reconstruction work approved in the certificate of eligibility.

d. The provisions of this part shall not apply to any increase in assessed value resulting from the construction or reconstruction of a residential structure on any property receiving an exemption under the provisions of this part. The provisions of this part shall apply exclusively to those structures and the lands underlying them which were identified explicitly in the certificate of eligibility.

e. The provisions of this part shall not apply if any new or rehabilitated construction displaces or replaces a building or buildings containing more than

twenty-five occupied dwelling units in existence on the date an application for certificate of eligibility is submitted for preliminary approval pursuant to section 11-251 of this part, which are administered under the local emergency housing rent control act, the rent stabilization law of nineteen hundred sixty-nine or the emergency tenant protection act of nineteen seventy-four, unless a certificate of eviction has been issued for any of the displaced or replaced units pursuant to the powers granted by the city rent and rehabilitation law.

f. The provisions of this part shall not apply to an applicant who has commenced construction or reconstruction work prior to the granting of a certificate of eligibility except where applicant, having filed an application for a certificate of eligibility, receives written permission to commence from the board or its designated representative prior to the granting of a certificate of eligibility. Demolition of existing structures, site preparation limited to grading, filling or clearing, or the curing of a safety or sanitary hazard shall not be deemed to be commencement of construction or reconstruction work.

g. Any property enjoying the benefits of a tax exemption approved by the board shall be ineligible for any subsequent or additional tax exemption pursuant to the provisions of this part until the expiration of the original exemption period or earlier termination of the existing exemption by action of the tax commission.

#### **§ 11-251 Applications for certificates of eligibility.**

a. Applications for a certificate of eligibility pursuant to this part shall be submitted for preliminary approval to the office for economic development commencing immediately after March first, nineteen hundred eighty-two and continuing until the thirty-first day of January, nineteen hundred eighty-six, on such form or forms as shall be prescribed by the board. In addition to any other information required by the board, the application shall include plans for reconstruction or construction that have been certified by a professional engineer or an architect of the applicant's choice and cost estimates or bids for the proposed reconstruction or construction. Upon a finding by such office that the application satisfies the requirements of reconstruction or construction as defined in this part, the application shall be presented to the board for evaluation and written notice thereof shall be given to the community board of the district in which the application site is located.

b. (1) In the case of an application for construction or reconstruction of an industrial structure or a commercial structure located in an area designated as of right, the board shall issue a certificate of eligibility upon determining that the application satisfies the requirements of construction or reconstruction as defined in this part, that the applicant has obtained plans for construction or reconstruction certified by a professional engineer or architect, and that the applicant has otherwise complied with the provisions of this part and other applicable provisions of law.

(2) In the case of an application for construction or reconstruction of a commercial structure not located in an as of right area, or involving a restricted commercial use, the board shall issue a certificate of eligibility upon making the determination specified in paragraph one of this subdivision and upon making the further determination that the granting of a tax exemption for the construction or reconstruction of such a structure in the proposed location is in the public interest. In making such determination, the board shall make findings that there is a need in the area for the services the enterprise will provide, that the enterprise will generate or retain employment in the area, and that a tax incentive is required to attract construction or reconstruction of such a structure to the area. In addition, the board shall consider the economic impact such commercial structure will have in the area.

(3) In the case of an application for construction or reconstruction of a commercial structure not located in an as of right area, or involving a restricted commercial use, the board may make a further determination that special circumstances warrant designating the proposed construction or reconstruction as "specially needed". In making such determination, the board shall make findings that the commercial services to be provided will have an especially positive impact on the area's or the city's economy and that the applicant has demonstrated that the project cannot go forward without the greater exemption granted by such designation.

c. Any meeting of the board at which an application for a certificate of eligibility is to be considered shall be open to the public, and notice of such meeting shall be given at least two weeks prior thereto by publication in a newspaper of general circulation within the city.

d. The burden of proof shall be on the applicant to show by clear and convincing evidence that the requirements for granting a tax exemption pursuant to this part have been satisfied, and the board shall have the authority to require that statements made in consideration of the application be taken under oath.

e. After the issuance of a certificate of eligibility the applicant shall apply to the city tax commission, during the period provided by law for filing applications for corrections of assessed valuations, for a tax exemption as provided for in section 11-250 of this part. The application shall be accompanied by a copy of the certificate of eligibility.

#### **§ 11-252 Approval of tax exemption.**

On completion of the reconstruction or construction work the applicant shall notify the board in writing of said completion. The board shall determine the eligibility of the applicant for the tax exemption as provided in section 11-250 of this part and shall notify the tax commission of such determination. If the applicant is determined to be qualified the commission shall approve the tax exemption.

#### **§ 11-253 Continuation of tax exemption; termination of tax exemption.**

The tax exemption approved by the board shall continue in accordance with this part, provided that the applicant files an annual certificate of continuing use stating that the structure and property continue to be used for the industrial or commercial purposes justifying the issuance of the certificate of eligibility. The certificate of continuing use shall be filed with the tax commission on such form or forms and containing such information as shall be prescribed by the tax commission. The tax commission shall have authority to terminate a tax exemption on failure of an applicant to file an annual certificate of continuing use or on the recommendation of the commissioner of finance who, in reviewing the certificate filed by an applicant, has determined that the structure or property has ceased to be used for the industrial or commercial purposes justifying the issuance of the certificate of eligibility.

#### **§ 11-254 Extension of time for completion.**

Where an applicant has received a certificate of eligibility but has not completed or will not be able to complete the construction or reconstruction work within thirty-six months, the board shall, upon application, extend to forty-eight months, from the time of issuance of such certificate, the time for completion of the construction or reconstruction work; provided the applicant has completed not less than two-thirds of the work as specified in the certified plans previously filed with the application at the time of such application for extension.

#### **§ 11-255 Prior certificates of eligibility.**

Any project for which a certificate of eligibility has been approved by the board prior to the enactment of this section shall be eligible for a tax exemption computed according to the tax exemption tables and formulae in effect on the date of such approval.

### **Part 4: Tax Exemption and Deferral of Tax Payment For Certain Industrial and Commercial Properties**

#### **§ 11-256 Definitions.**

When used in this part:

a. "Applicant" means any person obligated to pay real property taxes on the property for which an exemption from or abatement or deferral of real property tax payments is sought, or in the case of exempt property, the record owner or lessee thereof.

b. "Approved plans" means plans submitted to and approved by the department of buildings in connection with the applicant's building permit, including any amendments to such plans approved by such department before final inspection of the work for which such permit was issued.

c. "Benefit period" means the period of time when a recipient is eligible to receive benefits pursuant to this part including in the case of a recipient of a certificate of eligibility for commercial construction work in a deferral area, the period of time when tax payments are to be deferred, the interim period when no tax payments are to be deferred and no deferred tax payments are required to be made, and the period of time when the deferred tax payments are to be made.

d. "Commission" means the temporary commercial incentive area boundary commission.

e. "Commercial construction work" means the construction of a new building or structure, or portion thereof, or the modernization, rehabilitation, expansion, or other improvement of an existing building or structure, or portion thereof, for use as commercial property.

f. "Commercial property" means nonresidential property:

(1) on which will exist after completion of commercial construction work, a building or structure used for the buying, selling or otherwise providing of goods or services including hotel services, or for other lawful business, commercial or manufacturing activities; and

(2) (a) where, except as provided in subparagraph (b) of this paragraph and paragraph (3) of this subdivision, not more than fifteen per centum of the total net square footage of any building or structure on such property was used for manufacturing activities at any one or more times during the twenty-four months immediately preceding the date of application for a certificate of eligibility or

(b) where not more than fifteen per centum of the total net square footage of any building or structure on such property was used for manufacturing activities at any one or more times during the sixty months immediately preceding the date of application for a certificate of eligibility if such property is located, in whole or in part, in the area in the borough of Manhattan lying south of the center line of 96th Street; and

(3) in the commercial revitalization area, and with respect to an application for a certificate of eligibility filed on or after July first, two thousand, "commercial property" means nonresidential property on which will exist after completion of commercial construction work, a building or structure used for the buying, selling or otherwise providing of goods or services including hotel services, or for other lawful business, commercial or manufacturing activities.

f-1. "Commercial revitalization area" means any district that is zoned C4, C5, C6, M1, M2, or M3 in accordance with the zoning resolution in any area of the city except the area lying south of the center line of 96th street in the borough of Manhattan.

g. "Deferral area" means an area in which deferral of payment of real property taxes in accordance with section 11-257 of this part shall be available to a recipient who has performed commercial construction work.

h. "Excluded area" means each area specified in paragraphs (1), (2) and (3) of subdivision d of section 11-258 of this part.

i. "Exemption base."

(1) For purposes of computing the exemption pursuant to subdivision a, b, c or d of section 11-257 of this part, "exemption base" shall mean, with respect to property that is the subject of a certificate of eligibility with an effective date of June 30, 1992 or before:

(a) for the first, second and third taxable years following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to commercial or industrial construction work described in approved plans; and

(b) for all other years, the assessed value of such improvements which have been made before the fourth taxable status date following the effective date of such certificate.

(2) For purposes of computing the exemption pursuant to subdivision c, d or e of section 11-257 of this part, "exemption base" shall mean, with respect to property that is the subject of a certificate of eligibility with an effective date of July 1, 1992 or after:

(a) for the first through fifth taxable years following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to commercial or renovation construction work described in approved plans; and

(b) for all other years, the assessed value of such improvements which have been made before the sixth taxable status date following the effective date of such certificate.

(3) For purposes of computing the exemption pursuant to subdivision a or b of section 11-257 of this part, "exemption base" shall mean, with respect to property that is the subject of a certificate of eligibility with an effective date of July 1, 1992 or after:

(a) for the first through fifth taxable years following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to commercial or industrial construction work described in approved plans plus any equalization increases or minus any equalization decreases in the assessed value of the property so improved (excluding the land) occurring subsequent to the effective date of such certificate; and

(b) for all other years, the assessed value of such improvements made before the sixth taxable status date following the effective date of such certificate plus any equalization increases or minus any equalization decreases in the assessed value of the property so improved (excluding the land) occurring subsequent to the effective date of such certificate but before the fourteenth taxable status date following the effective date of such certificate. For purposes of the preceding sentence: no adjustment shall be made to the assessed value of the improvements referred to in subparagraphs (a) and (b) of this paragraph for any portion of an equalization increase or decrease which is being phased in pursuant to section eighteen hundred five of the real property tax law subsequent to the effective date of the certificate of eligibility if such increase or decrease occurred prior to such effective date; with respect to any taxable year, an adjustment for an equalization increase or decrease shall reflect only the portion of such increase or decrease which is being phased in during such taxable year or which was phased in during a prior taxable year; no adjustment for an equalization decrease shall reduce the exemption base to an amount less than the assessed value of the improvements referred to in subparagraphs (a) and (b) of this paragraph, and, to the extent that any such decrease would reduce the exemption base below such amount, such decrease shall reduce the taxable portion of the assessed value; and no adjustment shall be made for an equalization increase or decrease if the improvements referred to in subparagraphs (a) and (b) of this paragraph do not result in a physical increase in the assessed value of the property.

(4) Notwithstanding paragraph (1) of this subdivision, for purposes of computing the exemption pursuant to subdivision a of section 11-257 of this part, "exemption base" shall mean, with respect to industrial property that is located in the area in the borough of Manhattan lying north of the center line of 96th Street, or that is located in the Bronx, Brooklyn, Queens or Staten Island; and that is the subject of a certificate of eligibility with an effective date after December 31, 1989 and before July 1, 1992:

(a) for the first, second and third taxable years following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to industrial construction work described in approved plans; and

(b) for all other years, the assessed value of such improvements made before the fourth taxable status date following the effective date of such certificate plus any equalization increases or minus any equalization decreases in the assessed value of the property so improved (excluding the land) occurring subsequent to the fourth taxable status date following the effective date of such certificate but before the fourteenth taxable status date following

the effective date of such certificate. For purposes of the preceding sentence: no adjustment shall be made to the assessed value of the improvements referred to in subparagraphs (a) and (b) of this paragraph for any portion of an equalization increase or decrease which is being phased in pursuant to section eighteen hundred five of the real property tax law subsequent to the effective date of the certificate of eligibility if such increase or decrease occurred prior to such effective date; with respect to any taxable year, an adjustment for an equalization increase or decrease shall reflect only the portion of such increase or decrease which is being phased in during such taxable year or which was phased in during a prior taxable year; no adjustment for an equalization decrease shall reduce the exemption base to an amount less than the assessed value of the improvements referred to in subparagraphs (a) and (b) of this paragraph, and, to the extent that any such decrease would reduce the exemption base below such amount, such decrease shall reduce the taxable portion of the assessed value; and no adjustment shall be made for an equalization increase or decrease if the improvements referred to in subparagraphs (a) and (b) of this paragraph do not result in a physical increase in the assessed value of the property.

(5) For purposes of computing the exemption:

(a) pursuant to subdivision e.1 of section 11-257 of this part, "exemption base" shall mean, with respect to property that is the subject of a certificate of eligibility with an effective date of July 1, 1995 or after and that is located in the new construction exemption area specified in paragraph (1) of subdivision e of section 11-258 of this part: for any taxable year following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to the construction of a new building or structure that meets the requirements set forth in subdivision i of section 11-259 of this part as described in approved plans, provided such improvements are made within thirty-six months of the effective date of such certificate or by December 31, 1999, whichever is earlier; and

(b) pursuant to subdivision e.1 of section 11-257 of this part, "exemption base" shall mean, with respect to property that is the subject of a certificate of eligibility with an effective date of July 1, 1995 or after and that is located in the new construction exemption area specified in paragraph (2) of subdivision e of section 11-258 of this part: for any taxable year following the effective date of a certificate of eligibility, the assessed value of improvements made since the effective date of such certificate which are attributable exclusively to the construction of a new building or structure that meets the requirements set forth in subdivision i of section 11-259 of this part as described in approved plans, provided such improvements are made within forty-two months of the effective date of such certificate.

(6) For purposes of this subdivision "equalization increase or decrease" means an increase or decrease in the assessed value of property which is not attributable to construction work, fire, demolition, destruction or other change in the physical characteristics of the property (excluding gradual physical deterioration or obsolescence), or to a change in the description or boundaries of the property.

j. "Industrial construction work" means the construction of a new building or structure or the modernization, rehabilitation, expansion or improvement of an existing building or structure for use as industrial property.

k. "Industrial property" means nonresidential property on which will exist after completion of industrial construction work a building or structure wherein at least seventy-five per centum of the total net square footage is used or immediately available and held out for use for manufacturing activities involving the assembly of goods or the fabrication or processing of raw materials.

l. "Initial assessed value" means the lesser of:

(1) the taxable assessed value of real property appearing on the books of the annual record of the assessed valuation of real property on the effective date of a recipient's certificate of eligibility; or

(2) the assessed value to which such assessment is thereafter reduced pursuant to application to the tax commission or court order. Where the real property is used for both residential and nonresidential purposes on the effective date of such certificate of eligibility, the initial assessed value of such real property, determined as provided in the preceding sentence, shall be apportioned between the residential and nonresidential portions thereof in such manner as shall properly reflect the initial assessed value of each such portion. Such apportionment shall be in accordance with rules promulgated by the department of finance.

m. "Manufacturing activity" means an activity involving the assembly of goods or the fabrication or processing of raw materials.

n. "Minimum required expenditure" means expenditure for commercial, renovation or industrial construction work in an amount equal to twenty per centum of the initial assessed value; provided, however, that with respect to a recipient who filed an application on or after July 1, 1995 for a certificate of eligibility for industrial construction work or for commercial construction work in a special exemption area or a regular exemption area, minimum required expenditure means expenditure for such work in an amount equal to ten per centum of the initial assessed value; provided, however, that with respect to a recipient who filed an application on or after July 1, 1995 for a certificate of eligibility for industrial construction work and for the purpose of receiving an abatement of real property taxes in accordance with paragraph (3) of subdivision a of section 11-257 of this part, minimum required expenditure means expenditure for such work in an amount equal to twenty-five per centum of the initial assessed value; and provided further that if the department of finance, after consultation with the deputy mayor for finance and economic development, determines that a greater expenditure is required to encourage significant industrial and commercial development it may establish by rule a higher percentage of initial assessed value, not to exceed fifty per centum thereof, as the minimum required expenditure. Expenditure for residential construction work shall not be included in the minimum required expenditure; provided, however, that for mixed-use property, expenditures for construction work related to the common areas and systems of such property shall be allocated, in accordance with rules promulgated by the department of finance, between the residential and nonresidential portions of the property. If real property was used for both residential and nonresidential purposes on the effective date of the certificate of eligibility, the initial assessed value of such real property, for purposes of this subdivision, shall be the initial assessed value apportioned to the nonresidential portions thereof.

o. "Person" means an individual, corporation, partnership, association, agency, trust, estate, foreign or domestic government or subdivision thereof, or other entity.

p. "Recipient" means an applicant to whom a certificate of eligibility has been issued pursuant to this part, or the successor in interest of such applicant, provided that where a person who has entered into a lease or purchase agreement with the owner or lessee of exempt property has been a co-applicant, such person or the successor in interest of such person shall be the recipient.

q. "Regular exemption area" means an area in which a regular exemption from taxes in accordance with section 11-257 of this part shall be available to a recipient who performs commercial construction work.

r. "Residential construction work" means any construction, modernization, rehabilitation, expansion or improvement of dwelling units other than dwelling units in a hotel.

s. "Residential property" means property, other than property used for hotel purposes, on which exists, or will exist upon completion of construction work, a building or structure used for residential purposes.

t. "Restricted activity" means any entertainment activity which the department of finance has identified in regulations promulgated pursuant to this part as an activity which, in the public interest, should not be encouraged through the benefits of this part.

u. "Special exemption area" means an area in which the commission has determined that a special exemption from real property taxes in accordance with subdivision b of section 11-257 of this part shall be available to a recipient who performs commercial construction work and, in addition, means the area specified in paragraph (4) of subdivision c of section 11-258 of this part.

v. "Mixed-use property" means property on which exists, or will exist upon completion of construction work, a building or structure used for both residential and nonresidential purposes.

w. "Renovation construction work" means the modernization, rehabilitation, expansion or improvement of an existing building or structure, or portion thereof, for use as commercial property in a renovation exemption area where such modernization, rehabilitation, expansion or improvement is physically and functionally integrated with the existing building or structure, or portion thereof, does not increase the bulk of the existing building or structure by more than thirty per centum and does not increase the height of the existing building or structure by more than thirty per centum.

x. "Renovation exemption area" means the area specified in paragraph (4) of subdivision d of section 11-258 of this part in which a renovation exemption from taxes in accordance with subdivision e of section 11-257 of this part shall be available to a recipient who performs renovation construction work.

y. "New construction exemption areas" means the areas specified in subdivision e of section 11-258 of this part in which an exemption from real property taxes in accordance with subdivision e.1 of section 11-257 of this part shall be available to a recipient who constructs a new building or structure that meets the requirements set forth in subdivision i of section 11-259 of this part.

**§ 11-257 Real property tax exemption; deferral of tax payments.**

The city shall be divided into six classes of areas as provided in this part and pursuant to designation of areas to be made by the temporary commercial incentive area boundary commission. Within such areas, the following benefits shall be available to qualified recipients:

a. (1) A recipient who, following the effective date of a certificate of eligibility, has performed industrial construction work in any area of the city shall be eligible for an exemption from real property taxes as follows: For the first thirteen tax years, the recipient shall be exempt from taxation on one hundred per centum of the exemption base. For the following nine tax years, the recipient shall be exempt from taxation on a percentage of the exemption base beginning at ninety per centum thereof in the fourteenth tax year and decreasing by ten per centum of said exemption base each year. The following table shall illustrate the computation of the exemption for industrial construction work:

Tax year following effective date of certificate of eligibility:	Amount of exemption:
1 through 13	Tax on 100% of exemption base
14	Tax on 90% of exemption base
15	Tax on 80% of exemption base
16	Tax on 70% of exemption base
17	Tax on 60% of exemption base
18	Tax on 50% of exemption base
19	Tax on 40% of exemption base
20	Tax on 30% of exemption base
21	Tax on 20% of exemption base
22	Tax on 10% of exemption base

(2) Notwithstanding paragraph (1) of this subdivision, a recipient who filed an application for a certificate of eligibility for industrial construction work in any area of such city on or after July 1, 1995, and who, following the effective date of such certificate of eligibility, has performed such industrial construction work shall be eligible for an exemption from real property taxes as follows: for the first sixteen tax years, the recipient shall be exempt from taxation on one hundred per centum of the exemption base. For the following nine tax years, the recipient shall be exempt from taxation on a percentage of the exemption base beginning at ninety per centum thereof in the seventeenth tax year and decreasing by ten per centum of said exemption base each year. The following table shall illustrate the computation of the exemption for industrial construction work pursuant to this paragraph:

Tax year following effective date of certificate of eligibility:	Amount of exemption:
1 through 16	Tax on 100% of exemption base
17	Tax on 90% of exemption base
18	Tax on 80% of exemption base
19	Tax on 70% of exemption base
20	Tax on 60% of exemption base
21	Tax on 50% of exemption base
22	Tax on 40% of exemption base
23	Tax on 30% of exemption base
24	Tax on 20% of exemption base
25	Tax on 10% of exemption base

(3) (a) A recipient who filed an application for a certificate of eligibility for industrial construction work in any area of such city on or after July 1, 1995, and who, following the effective date of such certificate of eligibility, both commenced and completed such work, shall be eligible for an abatement of real property taxes as follows: for the first tax year immediately following completion of such work, and for the second, third and fourth tax years following completion of such work, the abatement shall equal fifty per centum of the real property tax that was imposed on the property which is the subject of the certificate of eligibility for the tax year immediately preceding the effective date of such certificate of eligibility, provided, however, that if such property was fully or partially exempt from real property taxes during such tax year, then the abatement shall equal fifty per centum of the real property tax that would have been imposed on such property but for such full or partial exemption. For the fifth and sixth tax years, the abatement shall equal forty per centum of such amount; for the seventh and eighth tax years, the abatement shall equal thirty per centum of such amount; for the ninth and tenth tax years, the abatement shall equal twenty per centum of such amount; and for the eleventh and twelfth tax years, the abatement shall equal ten per centum of such amount. Notwithstanding any inconsistent provision of this paragraph, a recipient shall not be eligible for an abatement for the first tax year following completion of such work, unless the recipient submits proof satisfactory to the department of finance that such work was completed on or before the taxable status date for such first tax year no later than thirty days after such taxable status date. Where the recipient fails to submit such proof in accordance with the foregoing sentence, a recipient shall not be eligible for an abatement until the second tax year following completion of such

work. In such case, a recipient shall submit proof satisfactory to the department of finance that such work was completed on or before the taxable status date for such first tax year no later than thirty days after the taxable status date for such second tax year. A recipient whose abatement begins in the second tax year following completion of such work shall not thereby have his or her twelve-year benefit period shortened. The following table shall illustrate the computation of the abatement for industrial construction work pursuant to this paragraph:

Tax year following completion of industrial construction work:	Amount of abatement:
1	50%
2	50%
3	50%
4	50%
5	40%
6	40%
7	30%
8	30%
9	20%
10	20%
11	10%
12	10%

(b) If, due to a determination of the department of finance or tax commission of such city or a court, the real property tax imposed on such property for the tax year immediately preceding the effective date of such certificate of eligibility is changed, then any abatement that was granted in accordance with this paragraph prior to such reduction shall be recalculated and any abatement to be granted in accordance with this paragraph shall be based on the real property tax imposed on such property for the tax year immediately preceding the effective date of such certificate of eligibility, as changed by such determination. The amount equal to the difference between the abatement originally granted and the abatement as so recalculated shall be deducted from any refund otherwise payable or remission otherwise due as a result of a change due to such determination, and any balance of such amount remaining unpaid after making any such deduction shall be paid to the department of finance within thirty days from the date of mailing by the department of finance of a notice of the amount payable. Such amount payable shall constitute a tax lien on such property as of the date of such notice and, if not paid within such thirty-day period, penalty and interest at the rate applicable to delinquent taxes on such property shall be charged and collected on such amount from the date of such notice to the date of payment.

(c) No property which is the subject of a certificate of eligibility pursuant to this part shall receive more than one abatement pursuant to this part and no abatement shall exceed one consecutive twelve-year period as specified in subparagraph (a) of this paragraph.

(d) In no event shall an abatement granted pursuant to this part exceed in any tax year the real property taxes imposed on the property which is the subject of a certificate of eligibility pursuant to this part.

(e) For the purpose of calculating an abatement of real property taxes pursuant to this part, where a tax lot contains more than one building or structure and not all of the buildings or structures comprising such tax lot are the subject of a certificate of eligibility for industrial construction work pursuant to this part, the real property taxes imposed on such tax lot for the year immediately preceding the effective date of such certificate of eligibility shall be apportioned among the buildings, structures and land comprising such tax lot and only such real property taxes as are allocable to the property which is the subject of the certificate of eligibility pursuant to this part shall be abated in accordance with this paragraph. Such apportionment shall be in accordance with rules promulgated by the department of finance.

(f) A recipient who filed an application for a certificate of eligibility for industrial construction work in the commercial revitalization area on or after July first, two thousand, and who, following the effective date of such certificate of eligibility, both commenced and completed such work, shall be eligible for an abatement of real property taxes in accordance with subparagraph (a) of this paragraph, provided, however, that where the total net square footage of the industrial property used or immediately available and held out for use for manufacturing activities involving the assembly of goods or the fabrication or processing of raw materials is less than seventy-five per centum of the total net square footage of the industrial property, the abatement of real property taxes shall be determined in accordance with rules promulgated by the department of finance. Notwithstanding the foregoing sentence, no such abatement shall be allowed where the total net square footage of the industrial property used or immediately available and held out for use for such manufacturing activities after completion of industrial construction work is less than the total net square footage used or immediate available and held out for use for such manufacturing activities before the commencement of such construction work. For purposes of this subparagraph only, the term "industrial construction work" shall mean the modernization, rehabilitation, expansion or improvement of an existing building or structure for use as industrial property and the term "industrial property" shall mean nonresidential property on which will exist after completion of industrial construction work a building or structure wherein at least twenty-five per centum of the total net square footage is used or immediately available and held out for use for manufacturing activities involving the assembly of goods or the fabrication or processing of raw materials.

b. (1) A recipient who, following the effective date of a certificate of eligibility, has performed commercial construction work in a special exemption area shall be eligible for an exemption from real property taxes as follows: For the first thirteen tax years, the recipient shall be exempt from taxation on one hundred per centum of the exemption base. For the following nine tax years, the recipient shall be exempt from taxation on a percentage of the exemption base beginning at ninety per centum thereof in the fourteenth tax year and decreasing by ten per centum of said exemption base each year. The following table shall illustrate the computation of the exemption for commercial construction work in a special exemption area:

Tax year following effective date of certificate of eligibility:	Amount of exemption:
1 through 13	Tax on 100% of exemption base
14	Tax on 90% of exemption base
15	Tax on 80% of exemption base
16	Tax on 70% of exemption base
17	Tax on 60% of exemption base

18	Tax on 50% of exemption base
19	Tax on 40% of exemption base
20	Tax on 30% of exemption base
21	Tax on 20% of exemption base
22	Tax on 10% of exemption base

(2) Notwithstanding paragraph (1) of this subdivision, a recipient who filed an application for a certificate of eligibility for commercial construction work in a special exemption area on or after July 1, 1995, and who, following the effective date of such certificate of eligibility, has performed such commercial construction work shall be eligible for an exemption from real property taxes as follows: For the first sixteen tax years, the recipient shall be exempt from taxation on one hundred per centum of the exemption base. For the following nine tax years, the recipient shall be exempt from taxation on a percentage of the exemption base beginning at ninety per centum thereof in the seventeenth tax year and decreasing by ten per centum of said exemption base each year. The following table shall illustrate the computation of the exemption for commercial construction work in a special exemption area pursuant to this paragraph:

Tax year following effective date of certificate of eligibility:	Amount of exemption:
1 through 16	Tax on 100% of exemption base
17	Tax on 90% of exemption base
18	Tax on 80% of exemption base
19	Tax on 70% of exemption base
20	Tax on 60% of exemption base
21	Tax on 50% of exemption base
22	Tax on 40% of exemption base
23	Tax on 30% of exemption base
24	Tax on 20% of exemption base
25	Tax on 10% of exemption base

c. (1) A recipient who, following the effective date of a certificate of eligibility, has performed commercial construction work in a regular exemption area shall be eligible for an exemption from real property taxes as follows: For the first eight tax years, the recipient shall be exempt from taxation on one hundred per centum of the exemption base. For the following four tax years, the recipient shall be exempt from taxation on a percentage of the exemption base beginning at eighty per centum thereof in the ninth tax year and decreasing by twenty per centum of said exemption base each year. The following table shall illustrate the computation of the exemption for commercial construction work in a regular exemption area:

Tax year following effective date of certificate of eligibility:	Amount of exemption:
1 through 8	Tax on 100% of exemption base
9	Tax on 80% of exemption base
10	Tax on 60% of exemption base
11	Tax on 40% of exemption base
12	Tax on 20% of exemption base

(2) Notwithstanding paragraph (1) of this subdivision, a recipient who filed an application for a certificate of eligibility for commercial construction work in a regular exemption area on or after July 1, 1995, and who, following the effective date of such certificate of eligibility, has performed such commercial construction work shall be eligible for an exemption from real property taxes as follows: For the first eleven tax years, the recipient shall be exempt from taxation on one hundred per centum of the exemption base. For the following four tax years, the recipient shall be exempt from taxation on a percentage of the exemption base beginning at eighty per centum thereof in the twelfth tax year and decreasing by twenty per centum of said exemption base each year. The following table shall illustrate the computation of the exemption for commercial construction work in a regular exemption area pursuant to this paragraph:

Tax year following effective date of certificate of eligibility:	Amount of exemption:
1 through 11	Tax on 100% of exemption base
12	Tax on 80% of exemption base
13	Tax on 60% of exemption base
14	Tax on 40% of exemption base
15	Tax on 20% of exemption base

d. Except as provided in paragraphs (2) and (3) of subdivision d of section 11-258 of this part, a recipient who, following the effective date of a certificate of eligibility, has performed commercial construction work in a deferral area shall be eligible for a deferral of tax payments as follows: For the first three tax years following the effective date of a certificate of eligibility, the tax payment on one hundred per centum of the exemption base shall be deferred. For the following four tax years, the tax payment on a percentage of the exemption base beginning at eighty per centum thereof in the fourth tax year and decreasing by twenty per centum each year shall be deferred. The total amount of tax payments deferred pursuant to this part shall be paid



subsequently over the course of ten tax years as follows: Commencing in the eleventh tax year following the effective date of the certificate of eligibility, through and including the twentieth tax year following such effective date, an amount equal to ten per centum of the total amount of tax payments deferred pursuant to this section shall be added to the amount of tax otherwise assessed and payable in each such tax year on the property subject to such deferral. The following table shall illustrate the computation of deferral and payment of taxes for commercial construction work in a deferral area:

Tax year following effective date of certificate of eligibility:	Amount of tax payments to be deferred or paid:
1 through 3	Deferral of tax payment on 100% of the exemption base
4	Deferral of tax payment on 80% of the exemption base
5	Deferral of tax payment on 60% of the exemption base
6	Deferral of tax payment on 40% of the exemption base
7	Deferral of tax payment on 20% of the exemption base
8 through 10	No tax payments are to be deferred and no deferred tax payments are required to be made
11 through 20	Payment each year of 10% of total dollar amount of tax payments deferred pursuant to this part

e. A recipient who, following the effective date of a certificate of eligibility, has performed renovation construction work in a renovation exemption area shall be eligible for an exemption from real property taxes as follows: For the first eight tax years, the recipient shall be exempt from taxation on one hundred per centum of the exemption base. For the following four tax years, the recipient shall be exempt from taxation on a percentage of the exemption base beginning at eighty per centum thereof in the ninth tax year and decreasing by twenty per centum of said exemption base each year. The following table shall illustrate the computation of the exemption for renovation construction work in a renovation exemption area:

Tax year following effective date of certificate of eligibility:	Amount of exemption:
1 through 8	Tax on 100% of exemption base
9	Tax on 80% of exemption base
10	Tax on 60% of exemption base
11	Tax on 40% of exemption base
12	Tax on 20% of exemption base

e.1. A recipient who, following the effective date of a certificate of eligibility, constructs a new building or structure that meets the requirements set forth in subdivision i of section 11-259 of this part in the new construction exemption area specified in paragraph (1), (2) or (3) of subdivision e of section 11-258 of this part shall be eligible for an exemption from real property taxes as follows: for the first four tax years, the recipient shall be exempt from taxation on one hundred per centum of the exemption base. For the following four tax years, the recipient shall be exempt from taxation on a percentage of the exemption base beginning at eighty per centum thereof in the fifth tax year and decreasing by twenty per centum of said exemption base each year. The following table shall illustrate the computation of the exemption for the construction of a new building or structure that meets the requirements set forth in subdivision i of section 11-259 of this part in the new construction exemption area specified in paragraph (1), (2) or (3) of subdivision e of section 11-258 of this part:

Tax year following effective date of certificate of eligibility:	Amount of exemption:
1 through 4	Tax on 100% of exemption base
5	Tax on 80% of exemption base
6	Tax on 60% of exemption base
7	Tax on 40% of exemption base
8	Tax on 20% of exemption base

f. There shall be no exemption from or deferral of payment of real property taxes available pursuant to this part to any person who performs commercial or renovation construction work in an excluded area, except as provided in paragraphs (2) and (3) of subdivision d of section 11-258 of this part.

g. The benefits of this part shall be granted exclusively for industrial, commercial or renovation construction work described in approved plans. No benefits shall be granted for residential construction work. Any parcel which is partly located in an excluded area shall be deemed to be entirely located in such area.

h. No benefits pursuant to this part shall be granted for work which is the subject of a certificate of eligibility issued pursuant to part three of this subchapter.

**§ 11-258 Temporary commercial incentive area boundary commission; classes of area; excluded areas.**

a. There shall be a temporary commercial incentive area boundary commission to consist of the deputy mayor for economic development and planning, the commissioner of finance, the chair of the city planning commission, the director of management and budget, the borough presidents, the speaker of the city council and a public member appointed by the mayor to serve at the mayor's pleasure. Each member except the public member shall have the power to designate an alternate to represent him or her at commission meetings to exercise all the rights and powers of such member, including the right to vote, provided that such designation be made in writing to the chair of the commission. The deputy mayor for economic development and planning shall be the chair of the commission. Each borough president shall be entitled to vote only on the designation of areas within his or her borough. Commission members who shall be officers or employees of the city shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties. Any other commission member shall receive as exclusive compensation for his or her services one hundred

dollars per diem, provided, however, that the total compensation paid to any such member shall not exceed twelve hundred dollars for any calendar year. A majority of members of such commission entitled to vote on a matter shall constitute a quorum for such issue. Decisions shall be made by majority vote of those present entitled to vote on a matter.

b. (1) The commission shall meet in nineteen hundred ninety-two, nineteen hundred ninety-five and nineteen hundred ninety-nine to determine the boundaries of the various areas which it is authorized to designate pursuant to this section. The areas designated by the commission in effect as of December thirty-first, nineteen hundred ninety-one shall remain in effect until the first taxable status date after the city council approves a new designation pursuant to paragraph (4) of this subdivision.

(2) Not later than October first of each year when areas are to be designated, the commission shall publish notice of proposed boundaries of areas to be designated, and the date, not earlier than five nor later than fifteen days following the publication of such notice, on which the commission will hold a public hearing to hear all persons interested in the designation of areas. The notice required by this paragraph shall be published in the City Record and a newspaper of general circulation in the city, and copies thereof shall be forwarded to each council member and community board.

(3) The commission shall make such designation, and notify the city council of such designation, not later than November first of each year when areas are to be designated. The designation shall be effective as provided in paragraph (4) of this subdivision.

(4) Within thirty days after the first stated meeting of the city council following the receipt of notice of such designation, the city council may, by majority vote, disapprove such designation. If, within such thirty-day period, the city council fails to act or fails to act by the required vote, the city council shall be deemed to have approved such designation. Such designation shall be effective as of the first taxable status date after the city council approves such designation and shall remain in effect until the first taxable status date after the city council approves a new designation pursuant to this paragraph.

c. (1) The commission may designate any area other than the area lying south of the center line of 96th Street in the borough of Manhattan to be a special exemption area if it determines that market conditions in the area are such that the availability of a special exemption is required in order to encourage commercial construction work in such area. In making such determination, the commission shall consider, among other factors, the existence in such area of a special need for commercial and job development, high unemployment, economic distress or unusually large numbers of vacant, underutilized, unsuitable or substandard structures, or other substandard, unsanitary, deteriorated or deteriorating conditions, with or without tangible blight.

(2) Any area in the city, other than the area lying south of the center line of 96th Street, which the commission has not designated as a special exemption area shall be a regular exemption area.

(3) On or after January 1, 1992, the commission shall not designate any area to be either a deferral area or an excluded area, nor shall the commission make any new designation in any urban renewal area designated pursuant to Article 15 of the General Municipal Law so as to reduce the level of benefits available pursuant to this title in such area.

(4) Notwithstanding any other provision of this part, any area in the city of New York designated as an empire zone in accordance with article eighteen-b of the general municipal law, which the commission has not designated as a special exemption area, shall be a special exemption area as of July 1, 1995 or as of the date of the designation of such area as an empire zone, whichever is later.

d. (1) The following area in the borough of Manhattan shall, except as otherwise provided in paragraphs (2), (3) and (4) of this subdivision and subdivision e of this section, be an excluded area: the area in the borough of Manhattan lying south of the center line of 96th Street and north of the center line of 23rd Street.

(2) The following areas in the borough of Manhattan shall, except as otherwise provided in paragraph (4) of this subdivision and subdivision e of this section, be excluded areas as of July 1, 1992; provided, however, that if an application for a certificate of eligibility has been filed for commercial construction work in such areas on or before December 31, 1992 and the recipient presents evidence satisfactory to the department of finance:

(a) (i) for a new building or structure, that construction has been completed on a foundation, as described in approved plans, on or before June 30, 1993; or

(ii) for an existing building or structure, that at least five per centum of the minimum required expenditure has been made for commercial construction work, as described in approved plans, on or before June 30, 1993; and

(b) that all other requirements of this part have been met; then, a deferral of tax payments pursuant to subdivision d of section 11-257 of this part shall be granted for such commercial construction work, except that no deferral of tax payments shall be granted for commercial construction work on mixed-use property:

(i) the area delineated by a line beginning at the point where the center line of 96th Street would intersect the Hudson River Pierhead line and running easterly along the center line of 96th Street to the center line of Central Park West; thence southerly along said center line to the center line of 59th Street; thence westerly along said center line to the Hudson River Pierhead line; thence northerly along said Pierhead line to the point of beginning; and

(ii) the area delineated by a line beginning at a point where the center line of 59th Street would intersect with a point one hundred fifty feet west of the center line of 8th Avenue and running easterly along the center line of 59th Street to a point one hundred fifty feet west of the center line of the Avenue of the Americas; thence southerly parallel to the Avenue of the Americas to a point which is the midpoint between the center line of 42nd Street and the center line of 41st Street; thence westerly parallel to 41st Street to a point one hundred fifty feet west of the center line of 8th Avenue; thence northerly parallel to 8th Avenue to the point of beginning.

(3) The following area in the borough of Manhattan shall, except as otherwise provided in paragraph (4) of this subdivision and subdivision e of this section, be an excluded area as of January 1, 1993; provided, however, that if an application for a certificate of eligibility has been filed for commercial construction work in such area on or before December 31, 1992 and the recipient presents evidence satisfactory to the department of finance:

(a) (i) for a new building or structure, that construction has been completed on a foundation, as described in approved plans, on or before December 31, 1993; or

(ii) for an existing building or structure, that at least five per centum of the minimum required expenditure has been made for commercial construction work, as described in approved plans, on or before December 31, 1993; and

(b) that all other requirements of this part have been met, then, a deferral of tax payments pursuant to subdivision d of section 11-257 of this part shall be granted for such commercial construction work, except that no deferral of tax payments shall be granted for commercial construction work on mixed-use property: the area delineated by a line beginning at the point where the center line of 59th Street would intersect with the Hudson River Pierhead line; thence southerly along said Pierhead line to the center line of Liberty Street; thence easterly along said center line to the center line of Church Street; thence northerly along said center line to the center line of Fulton Street; thence easterly along said center line to the East River Pierhead line; thence northerly along said Pierhead line to a point which is the midpoint between the center line of 34th Street and the center line of 33rd Street; thence westerly parallel to 33rd Street to a point one hundred fifty feet west of the center line of the Avenue of the Americas; thence northerly parallel to the Avenue of the Americas to a point which is the midpoint between the center line of 42nd Street and the center line of 41st Street; thence westerly parallel to 41st Street to a point one hundred fifty feet west of the center line of 8th Avenue; thence northerly parallel to 8th Avenue to the center line of 59th Street; thence westerly along said center line to the point of beginning.

(4) Notwithstanding the provisions of paragraphs (1), (2) and (3) of this subdivision, the following areas in the borough of Manhattan shall be

renovation exemption areas:

(a) as of July 1, 1992 and until June 30, 2008: the area in the borough of Manhattan lying south of the center line of 23rd Street;

(b) as of July 1, 1992 and until January 31, 1995: the area in the borough of Manhattan lying south of the center line of 96th Street and north of the center line of 23rd Street; and

(c) as of July 1, 1995 and until June 30, 2008: the area in the borough of Manhattan lying south of the center line of 59th Street and north of the center line of 23rd Street.

e. Notwithstanding the provisions of subdivision d of this section, the areas in the borough of Manhattan specified in paragraphs (1), (2) and (3) of this subdivision, except the "Project Area" described in a lease held by the Battery Park City Authority as tenant and originally dated as of November 24, 1969 and thereafter from time to time amended, shall be new construction exemption areas:

(1) as of July 1, 1995 and until December 31, 1996: the area in the borough of Manhattan lying south of the center line of 96th Street, excluding the area specified in paragraph (2) of this subdivision; and

(2) as of July 1, 1995 and until June 30, 2003: the area in the borough of Manhattan bounded by Murray Street on the north starting at the intersection of West Street and Murray Street; running easterly along the center line of Murray Street; connecting through city hall park with the center line of Frankfort Street and running easterly along the center line of Frankfort and Dover Streets to the intersection of Dover Street and South Street; running southerly along the center line of South Street to Peter Minuit Plaza; connecting through Peter Minuit Plaza to the center line of State Street and running northwesterly along the center line of State Street to the intersection of State Street and Battery Place; running westerly along the center line of Battery Place to the intersection of Battery Place and West Street; and running northerly along the center line of West Street to the intersection of West Street and Murray Street; and

(3) as of July 1, 2003 and until June 30, 2008: the area in the borough of Manhattan bounded by Murray Street on the north starting at the intersection of West Street and Murray Street; running easterly along the center line of Murray Street; connecting through City Hall Park with the center line of Frankfort Street and running easterly along the center line of Frankfort and Dover Streets to the intersection of Dover Street and South Street; running southerly along the center line of South Street to Peter Minuit Plaza; connecting through Peter Minuit Plaza to the center line of State Street and running northwesterly along the center line of State Street to the intersection of State Street and Battery Place; running westerly along the center line of Battery Place to the intersection of Battery Place and West Street; and running northerly along the center line of West Street to the intersection of West Street and Murray Street, except the area in the borough of Manhattan bounded by Church Street on the east starting at the intersection of Liberty Street and Church Street; running northerly along the center line of Church Street to the intersection of Church Street and Vesey Street; running westerly along the center line of Vesey Street to the intersection of Vesey Street and West Broadway; running northerly along the center line of West Broadway to the intersection of West Broadway and Barclay Street; running westerly along the center line of Barclay Street to the intersection of Barclay Street and Washington Street; running southerly along the center line of Washington Street to the intersection of Washington Street and Vesey Street; running westerly along the center line of Vesey Street to the intersection of Vesey Street and West Street; running southerly along the center line of West Street to the intersection of West Street and Liberty Street; and running easterly along the center line of Liberty Street to the intersection of Liberty Street and Church Street.

### **§ 11-259 Eligibility for benefits.**

a. A recipient of a certificate of eligibility with an effective date of June 30, 1992 or before must make one-half the minimum required expenditure within eighteen months of the effective date of such recipient's certificate of eligibility, and make the minimum required expenditure within thirty-six months of the effective date of such certificate to be eligible to receive the benefits of this part. A recipient of a certificate of eligibility with an effective date of July 1, 1992 or after must make one-half the minimum required expenditure within thirty months of the effective date of such recipient's certificate of eligibility, and make the minimum required expenditure within sixty months of the effective date of such certificate to be eligible to receive the benefits of this part; provided, however, that a recipient of a certificate of eligibility for renovation construction work for property located in the renovation exemption area specified in subparagraph (b) of paragraph (4) of subdivision d of section 11-258 of this part must make one-half the minimum required expenditure within eighteen months of the effective date of such recipient's certificate of eligibility, or by December 31, 1994, whichever is earlier, and make the minimum required expenditure within thirty-six months of the effective date of such certificate, or by December 31, 1995, whichever is earlier, to be eligible to receive the benefits of this part; provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for property located in the renovation exemption area specified in subparagraph (b) of paragraph (4) of subdivision d of section 11-258 of this part on or after July 1, 1994, but before February 1, 1995, must make one-half the minimum required expenditure within eighteen months of the effective date of such certificate, or by July 31, 1995, whichever is earlier, and make the minimum required expenditure within thirty-six months of the effective date of such certificate, or by July 31, 1996, whichever is earlier, to be eligible to receive the benefits of this part, provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for property located in the renovation exemption area specified in subparagraph (a) or (c) of paragraph (4) of subdivision d of section 11-258 of this part on or after July 1, 1995, must make one-half the minimum required expenditure within eighteen months of the effective date of such certificate, to be eligible to receive the benefits of this part. Any recipient who shall fail to make such expenditures shall become ineligible and shall pay, with interest, any taxes for which an exemption or deferral was claimed pursuant to this section. This subdivision shall not apply to the recipient of a certificate of eligibility for construction of a new building or structure that meets the requirements set forth in subdivision i of section 11-259 of this part in a new construction exemption area.

b. No benefits pursuant to this part shall be granted for construction work on any condominium unit unless such unit is in a building or structure which, if viewed as a whole and as if it were under single ownership, would qualify as commercial or industrial property. The minimum required expenditure applicable to any recipient of a certificate of eligibility for construction work on a condominium unit shall be equal to the minimum expenditure which would apply if a certificate of eligibility were issued for construction work on the entire property where such unit is located. Nothing in this subdivision shall be construed to prevent owners of condominium units in the same property from forming an association to be a recipient. This subdivision shall not apply to any applicant whose property would be, or recipient whose property is, the subject of a certificate of eligibility with an effective date of July 1, 1992 or after.

c. (1) No benefits pursuant to this part shall be granted for any construction work unless the applicant filed an application for such benefits on or before the date of issuance of a building permit for such work. The requirements of this subdivision may be satisfied where the applicant's architect, contractor or other representative authorized to file the application for such building permit files with the department of finance on behalf of the applicant a preliminary application containing such information as the department of finance shall prescribe by regulation.

(2) Notwithstanding paragraph (1) of this subdivision, an applicant may file an application for benefits pursuant to this part for renovation construction work for property located in the areas specified in paragraph (3) of this subdivision, regardless of whether a building permit for such work was issued before such application was filed, provided that such permit was not issued before January 1, 1990 or after June 30, 1992, and provided further that a final application is filed with, and accepted by, the department of finance, on or before December 31, 1992. The department of finance shall issue a certificate of eligibility to such an applicant upon determining that the applicant satisfies all other requirements of this part. The effective date of such certificate shall be the date of acceptance by the department of finance of a final application containing such information as prescribed by rule of the department of finance. No benefits pursuant to this part shall be granted for construction work performed before the effective date of the recipient's certificate of eligibility.

(3) Pursuant to paragraph (2) of this subdivision, an applicant may file an application for benefits pursuant to this part for renovation construction work for property located in the following areas in the borough of Manhattan lying south of 96th Street:

(a) the area delineated by a line beginning at the point where the center line of 96th Street would intersect the East River Pierhead line and

running westerly along the center line of 96th Street to the center line of Fifth Avenue; thence southerly along said center line to the center line of 59th Street; thence westerly along said center line to a point one hundred fifty feet west of the center line of the Avenue of the Americas; thence southerly parallel to the Avenue of the Americas to the center line of 34th Street; thence easterly along said center line to the East River Pierhead line; thence northerly along said Pierhead line to the point of beginning; and

(b) the area delineated by a line beginning at the point where the center line of Fulton Street would intersect the East River Pierhead line and running westerly along the center line of Fulton Street to the center line of Church Street; thence southerly along said center line to the center line of Liberty Street; thence westerly along said center line to the Hudson River Pierhead line; thence southerly and along said Pierhead line to the point of beginning.

(4) Notwithstanding paragraph (1) of this subdivision, an applicant may file an application for benefits pursuant to this part for renovation construction work for property located in the renovation exemption area specified in subparagraph (c) of paragraph (4) of subdivision d of section 11-258 of this part within sixty days of the date of enactment of local law number 58 for the year 1995, regardless of whether a building permit for such work was issued before such application was filed, provided that such permit was not issued before February 1, 1995, and provided further that a final application is filed with, and accepted by, the department of finance, on or before December 31, 1995. The department of finance shall issue a certificate of eligibility to such an applicant upon determining that the applicant satisfied all other requirements of this part. The effective date of such certificate shall be the date of acceptance by the department of finance of a final application containing such information as prescribed by rule of the department of finance. No benefits pursuant to this part shall be granted for construction work performed before the effective date of such certificate of eligibility.

d. No benefits pursuant to this part shall be granted to any recipient for construction work on property any part of which is to be used for a restricted activity.

e. No benefits pursuant to this part shall be granted for any construction work unless the applicant shall file, together with the application, an affidavit setting forth the following information:

(1) a statement that within the seven years immediately preceding the date of application for a certificate of eligibility, neither the applicant, nor any person owning a substantial interest in the property as defined in paragraph four of this subdivision, nor any officer, director or general partner of the applicant or such person was finally adjudicated by a court of competent jurisdiction to have violated section two hundred thirty-five of the real property law or any section of article one hundred fifty of the penal law or any similar arson law of another state with respect to any building, or was an officer, director or general partner of a person at the time such person was finally adjudicated to have violated such law;

(2) a statement setting forth any pending charges alleging violation of section two hundred thirty-five of the real property law or any section of article one hundred fifty of the penal law or any similar arson law of another jurisdiction with respect to any building by the applicant or any person owning a substantial interest in the property as defined in paragraph four of this subdivision, or any officer, director or general partner of the applicant or such person; and

(3) a statement that the applicant has posted notice in a conspicuous place at the premises which are the subject of the application and published notice in a newspaper of general circulation in the city, in such form as shall be prescribed by the department of finance, stating that persons having information concerning any violation by the applicant or a person having a substantial interest in the property as defined in paragraph four of this subdivision has violated section two hundred thirty-five of the real property law or any section of article one hundred fifty of the penal law or any similar arson law of another jurisdiction may submit such information to the department of finance to be considered in determining the applicant's eligibility for benefits.

(4) "Substantial interest" as used in this subdivision shall mean ownership and control of an interest of ten per centum or more in a property or of any person owning a property.

f. If any person described in the statement required by paragraph two of subdivision e of this section is finally adjudicated by a court of competent jurisdiction to be guilty of any charge listed in such statement, the recipient shall cease to be eligible for benefits pursuant to this part and shall pay with interest any taxes for which an exemption, abatement or deferral was claimed pursuant to this part.

g. In addition to any other qualifications for exemption from or abatement or deferral of payment of taxes set forth in this part, an applicant must be:

(1) obligated to pay real property tax on the property for which an exemption, abatement or deferral is sought, whether such obligation arises because of record ownership of such property, or because the obligation to pay such tax has been assumed by contract; or

(2) the record owner or lessee of property which is exempt from real property taxation who has entered into an agreement to sell or lease such property to another person. Such person shall be a co-applicant with such owner or lessee.

h. A co-applicant with a public entity shall be an eligible recipient pursuant to this part, provided that for such period as the property which is the subject of the certificate of eligibility is exempt from real property taxation because it is owned or controlled by a public entity no benefits shall be available to such recipient pursuant to this part. Such recipient shall receive benefits pursuant to this part when such property ceases to be eligible for exemption pursuant to other provisions of law, as follows: the recipient shall, commencing with the date such tax exemption ceases, and continuing until the expiration of the benefit period pursuant to this part, receive the benefits to which such recipient is entitled in the corresponding tax year pursuant to this part.

i. (1) (a) No benefits pursuant to this part shall be granted for construction of a new building or structure in the new construction exemption area specified in paragraph (1) of subdivision e of section 11-258 of this part unless (i) construction of the foundation of such building or structure has been completed within twelve months of the effective date of the recipient's certificate of eligibility, or by December 31, 1997, whichever is earlier; and (ii) construction of such building or structure has been completed within thirty-six months of the effective date of the recipient's certificate of eligibility, or by December 31, 1999, whichever is earlier.

(b) No benefits pursuant to this part shall be granted or reconstruction of a new building or structure in the new construction exemption area specified in paragraph (2) of subdivision e of section 11-258 of this part unless: (i) construction of the foundation of such building or structure has been completed within twenty-four months of the effective date of the recipients' certificate of eligibility; and (ii) construction of such building or structure has been completed within forty-two months of the effective date of the recipient's certificate of eligibility.

(c) No benefits pursuant to this part shall be granted for construction of a new building or structure in the new construction exemption area specified in paragraph (3) of subdivision e of section 11-258 of this part unless: (i) construction of the foundation of such building or structure has been completed within twenty-four months of the effective date of the recipient's certificate of eligibility; and (ii) construction of such building or structure has been completed within forty-two months of the effective date of the recipient's certificate of eligibility.

(2) No benefits pursuant to this part shall be granted for construction of a new building or structure in a new construction exemption area unless such building or structure meets the requirements set forth in subparagraphs (a) and (b) of this paragraph and, in addition, meets at least two of the five requirements set forth in subparagraphs (c) through (g) of this paragraph.

(a) The height of at least fifty per centum of the floors in such building or structure shall be not less than twelve feet, nine inches measured from the top of the slab comprising the floor to the bottom of the slab comprising the ceiling;

(b) Such building or structure shall be served by fiber optic telecommunications wiring and shall contain vertical penetrations for the distribution of fiber optic cabling to individual tenants on each floor;

(c) The total square footage of such building or structure is not less than five hundred thousand gross square feet;

(d) A minimum of two hundred thousand gross square feet or twenty-five per centum of such building or structure is comprised of floors of not less than forty thousand gross square feet;

(e) At least ten per centum of the gross square footage of such building or structure is comprised of floors that contain no more than eight structural columns, excluding any columns within the core or on the periphery of such building or structure;

(f) The electrical capacity of such building or structure is not less than six watts per net square foot;

(g) Emergency backup power sufficient to accommodate a need of six watts per net square foot is available in at least two hundred thousand gross square feet or twenty-five per centum of such building or structure.

j. No benefits pursuant to this part shall be granted for construction work performed pursuant to a building permit issued after July thirty-first, two thousand eight, except that if a building permit is issued on or before July thirty-first, two thousand eight for construction work on a building or structure described in an application for a certificate of eligibility filed on or before June thirtieth, two thousand eight, construction work performed as described in such application pursuant to any additional building permit issued on or after August first, two thousand eight shall be eligible for benefits pursuant to this part in accordance with this subdivision.

(1) Except as provided in paragraph (2) of this subdivision, all construction work performed pursuant to any such application shall be completed on or before December thirty-first, two thousand thirteen. No benefits shall be granted for construction work performed after such date, and any exemption granted pursuant to this part in relation to property on which such construction work was performed shall not exceed the amount of the exemption in effect for such property on the tax roll for which the taxable status date is January fifth, two thousand fourteen.

(2) All construction work performed pursuant to any such application for the construction of a new building or structure in the new construction exemption area specified in paragraph (3) of subdivision e of section 11-258 of this part shall be completed in accordance with subparagraph (c) of paragraph (1) of subdivision i of this section and, if not completed in accordance with such subparagraph, shall not be eligible for benefits pursuant to this part.

(3) For purposes of this subdivision, construction work as described in an application for a certificate of eligibility shall be deemed completed on the date on which the department of buildings issues a temporary or final certificate of occupancy or, if such construction work does not require the issuance of a certificate of occupancy, the date on which the applicant and the applicant's architect or professional engineer for such construction work submit to the department of finance an affidavit certifying that such construction work has been completed. For purposes of this subdivision, a demolition permit shall be deemed to be a building permit issued for construction work.

#### **§ 11-260 Application for certificate of eligibility.**

a. Application for a certificate of eligibility pursuant to this part may be made immediately and continuing until June 30, 2008; provided, however, that application for a certificate of eligibility for renovation construction work for property located in the renovation exemption area specified in subparagraph (b) of paragraph (4) of subdivision d of section 11-258 of this part may not be made after January 31, 1995; provided, further, however, that application for a certificate of eligibility for construction of a new building or structure that meets the requirements set forth in subdivision i of section 11-259 of this part in the new construction exemption area specified in paragraph (1) of subdivision e of section 11-258 of this part may not be made after December 31, 1996; provided, further, however, that application for a certificate of eligibility for construction of a new building or structure that meets the requirements set forth in subdivision i of section 11-259 of this part in the new construction exemption area specified in paragraph (2) of subdivision e of section 11-258 of this part may not be made after June 30, 2003. Such application shall state whether it is for industrial, commercial or renovation construction work, and shall be filed with the department of finance. In addition to any other information required by such department, the application shall include cost estimates or bids for the proposed construction and an affidavit of a professional engineer or architect of the applicant's choice, certifying that detailed plans for the construction work have been submitted to the department of buildings. Such application shall also state that the applicant agrees to comply with and be subject to the rules issued from time to time by the department of finance to secure compliance with all applicable city, state and federal laws or which implement mayoral directives and executive orders designed to ensure equal employment opportunity. Such application shall also certify that all taxes currently due and owing on the property which is the subject of the application have been paid or are currently being paid in timely installments pursuant to written agreement with the department of finance.

b. The burden of proof shall be on the applicant to show by clear and convincing evidence that the requirements for granting an exemption from or abatement or deferral of payment of taxes pursuant to this part have been satisfied. The department of finance shall have the authority to require that statements in connection with the application be made under oath.

c. Upon receipt of an application, the department of finance shall send written notice thereof to the council member representing the district where the proposed construction work is to take place.

d. The department of finance shall issue a certificate of eligibility upon determining that the applicant satisfies the requirements for industrial, commercial or renovation construction work in an area where benefits are available for such work. Such certificate shall state whether such benefits are to be granted for industrial, commercial or renovation construction work, and in which class of area the property is located. The effective date of such certificate, except as provided in paragraph (2) or paragraph (4) of subdivision c of section 11-259 of this part, shall be the earlier of (1) the date on which a building permit for the construction work is issued by the department of buildings, or (2) the last day before the effective date of any designation of boundaries by the commission which changes the class of area in which the property is located so as to reduce the level of benefits for commercial construction work on such property. Where the effective date of the certificate of eligibility is July 1, 1992 or after, the benefits granted for industrial, commercial or renovation construction work pursuant to this part shall be in accordance with the provisions of this part as amended by local law number 73 for the year 1992, local law number 40 for the year 1994, local law number 58 for the year 1995, local law number 44 for the year 1999, local law number 48 for the year 2003 and the local law for the year 2007 that added this clause. Where the effective date of the certificate of eligibility is June 30, 1992 or before, the benefits granted for industrial or commercial construction work pursuant to this part shall be in accordance with the provisions of this part as it was in effect until June 30, 1992 immediately prior to its amendment by local law number 73 for the year 1992. No recipient whose property is the subject of a certificate of eligibility for commercial construction work in a deferral area shall be eligible to apply for a certificate of eligibility for renovation construction work on the same property, where the renovation construction work is the same as, or similar to, the commercial construction work for which the deferral area certificate was issued, until three years after the effective date of the deferral area certificate. No recipient shall receive a tax deferral and a tax exemption for the same expenditure on eligible construction work.

e. A copy of the certificate of eligibility shall be filed by the department of finance in the manner prescribed for recording a mortgage pursuant to section two hundred ninety-one-d of the real property law.

f. The department of finance may provide by rule for reasonable administrative charges or fees necessary to defray expenses in administering the benefit program provided by this part.

#### **§ 11-261 Reporting requirement; termination of benefits.**

a. Upon approval by the department of buildings of the plans submitted in connection with the building permit and any amendments to such plans, the recipient shall file with the department of finance a narrative description of such approved plans describing the industrial, commercial or renovation construction work for which such recipient seeks benefits pursuant to this part.

b. For the duration of the benefit period the recipient shall file annually with the department of finance, on or before the taxable status date, a certificate of continuing use stating the purposes for which the property described in the certificate of eligibility is being used and the net square footage allotted to

each such purpose. Such certificate of continuing use shall be on a form prescribed by the department of finance and shall state the total number of workers employed on the property and the number of such workers who are city residents. The department of finance shall have authority to terminate benefits pursuant to this part upon failure of a recipient to file such certificate by the taxable status date. The burden of proof shall be on the recipient to establish continuing eligibility for benefits and the department of finance shall have the authority to require that statements made in such certificate shall be made under oath.

c. A recipient shall file an amendment to the latest certificate of continuing use prior to (1) converting square footage within property which is the subject of a certificate of eligibility for industrial construction work from use for the manufacturing activities described in such certificate of continuing use where such conversion results in less than sixty-five per centum of total net square footage being used or held out for use for manufacturing activities; or (2) converting any portion of property which is the subject of a certificate of eligibility to use for any restricted activity or as residential property.

d. No later than eighteen months after the effective date of a certificate of eligibility with an effective date of June 30, 1992 or before, the recipient shall present evidence to the department of finance demonstrating that the recipient has made one-half of the minimum required expenditure. Not later than thirty-six months after the effective date of such certificate, such recipient shall present evidence to such department demonstrating that the recipient has made the minimum required expenditure. Not later than thirty months after the effective date of a certificate of eligibility with an effective date of July 1, 1992 or after, the recipient shall present evidence to the department of finance demonstrating that the recipient has made one-half of the minimum required expenditure; provided, however, that a recipient of a certificate of eligibility for renovation construction work for property located in the renovation exemption area specified in subparagraph (b) of paragraph (4) of subdivision d of section 11-258 of this part shall present such evidence not later than eighteen months after the effective date of such certificate, or by December 31, 1994, whichever is earlier; provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for property located in the renovation exemption area specified in subparagraph (b) of paragraph (4) of subdivision d of section 11-258 of this part on or after July 1, 1994, but before February 1, 1995, shall present such evidence not later than eighteen months after the effective date of such certificate, or by July 31, 1995, whichever is earlier, provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for property located in the renovation exemption area specified in subparagraph (a) or (c) of paragraph (4) of subdivision d of section 11-258 of this part on or after July 1, 1995, shall present such evidence not later than eighteen months after the effective date of such certificate. Not later than sixty months after the effective date of a certificate of eligibility with an effective date of July 1, 1992 or after, the recipient shall present evidence to such department demonstrating that the recipient has made the minimum required expenditure; provided, however, that a recipient of a certificate of eligibility for renovation construction work for property located in the renovation exemption area specified in subparagraph (b) of paragraph (4) of subdivision d of section 11-258 of this part shall present such evidence not later than thirty-six months after the effective date of such certificate, or by December 31, 1995, whichever is earlier; provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for property located in the renovation exemption area specified in subparagraph (b) of paragraph (4) of subdivision d of section 11-258 of this part on or after July 1, 1994, but before February 1, 1995, shall present such evidence not later than thirty-six months after the effective date of such certificate, or by July 31, 1996, whichever is earlier, provided, further, however, that a recipient who filed an application for a certificate of eligibility for renovation construction work for property located in the renovation exemption area specified in subparagraph (a) or (c) of paragraph (4) of subdivision d of section 11-258 of this part on or after July 1, 1995, shall present such evidence not later than thirty-six months after the effective date of such certificate. Such evidence shall be presented in the form and manner prescribed by such department. The burden of proof shall be on the recipient to show by clear and convincing evidence that the required expenditures have been made. This subdivision shall not apply to the recipient of a certificate of eligibility for construction of a new building or structure that meets the requirements set forth in subdivision i of section 11-259 of this part in a new construction exemption area.

e. A recipient of a certificate of eligibility for construction of a new building or structure in a new construction exemption area shall present evidence to the department of finance demonstrating that the requirements of subdivision i of section 11-259 of this part have been met. Such evidence shall be presented in the form and manner and at the time prescribed by such department. The burden of proof shall be on the recipient to show by clear and convincing evidence that such requirements have been met.

### **§ 11-262 Conversion of property.**

a. Any recipient whose property is the subject of a certificate of eligibility for commercial or renovation construction work, and who, prior to the expiration of the benefit period, used such property as industrial property, shall continue to receive benefits for commercial or renovation construction work as the case may be.

b. Any recipient whose property is the subject of a certificate of eligibility for industrial construction work, and who, prior to the expiration of the benefit period, uses such property as commercial property, shall cease to be eligible for further exemption or abatement for industrial construction work as of the last date to which such recipient proves by clear and convincing evidence that such property was used as industrial property, and shall pay with interest any taxes for which an exemption or abatement was claimed after such date, except that

(1) a recipient of a certificate of eligibility for industrial construction work in a special exemption area who would have been eligible to receive a certificate of eligibility for commercial construction work at the time such recipient applied for benefits shall continue to receive an exemption for industrial construction; and

(2) a recipient of a certificate of eligibility for industrial construction work in a regular exemption area who would have been eligible to receive a certificate of eligibility for commercial construction work at the time such recipient applied for benefits shall, commencing with the date of conversion to commercial property and continuing until the expiration of the benefit period for commercial construction work, receive any exemption which such recipient would have received in the corresponding tax year pursuant to a certificate of eligibility for commercial construction work; and

(3) a recipient of a certificate of eligibility for industrial construction work in any area of the city on whose property at least sixty-five per centum of the net square footage continues to be used or held out for use for manufacturing activities after conversion to commercial property, shall not be required to pay the pro rata share of tax for which an exemption was claimed during the tax year in which such conversion occurred.

c. Except as provided in subdivision d of this section, any recipient whose property is the subject of a certificate of eligibility for commercial, industrial or renovation construction work, and who uses such property as residential property or for any restricted activity prior to the expiration of the benefit period, shall cease to be eligible for further exemption, abatement or deferral as of the date such property was first used as residential property or for any restricted activity. In the case of property in an area that was designated as an exemption area at the time the certificate of eligibility was issued, such recipient shall pay with interest any taxes for which an exemption was claimed after such date, including the pro rata share of tax for which any exemption was claimed during the tax year in which such use occurred. In the case of industrial property, such recipient shall pay with interest any taxes for which an exemption or abatement was claimed after such date, including the pro rata share of tax for which any exemption or abatement was claimed during the tax year in which such use occurred. In the case of property in an area that was designated as a deferral area at the time the certificate of eligibility was issued, all deferred tax payments on the property shall become due and payable immediately.

d. Notwithstanding subdivision c of this section, any recipient whose property is the subject of a certificate of eligibility for commercial or renovation construction work with an effective date of July 1, 1992 or after, and who, prior to the expiration of the benefit period, uses a portion of such property as residential property, shall cease to be eligible for further exemption for commercial or renovation construction work for that portion of such property used as residential property as of the date such portion of the property was first used as residential property. Such recipient shall pay, with interest, any taxes for which an exemption was claimed after such date attributable to that portion of the property used as residential property, including the pro rata share of tax for which such exemption was claimed during the tax year in which such use occurred. Such recipient shall continue to receive an exemption for commercial or renovation construction work for that portion of the property which continues to be used as commercial property.

### **§ 11-263 Administration of the benefit program.**

a. The department of finance shall have, in addition to any other functions, powers and duties which have been or may be conferred on it by law, the following functions, powers and duties:

- (1) To publicize the availability of benefits pursuant to this part for industrial, commercial and renovation construction work.
- (2) To receive and review applications for certificates of eligibility, issue such certificates where authorized pursuant to section 11-260 of this part, and record the issuance of such certificates as prescribed in such section.
- (3) To receive evidence of expenditures made for construction, and where such expenditures do not equal the amount required to qualify for exemption from or abatement or deferral of tax payments to take appropriate action, including but not limited to denying, reducing, suspending, terminating or revoking benefits pursuant to this part.
- (4) To enter and inspect property to determine whether it is industrial or commercial or mixed-use and to determine whether (a) any such property is being used for any restricted use, or (b) any property which is the subject of a certificate of eligibility for industrial construction work is being used as commercial property, or (c) any industrial or commercial property is being used as residential or mixed-use property, or (d) all or part of the nonresidential portion of mixed-use property is being used as residential property.
- (5) To collect all real property taxes for which payment is deferred pursuant to this part.
- (6) To collect all real property taxes, with interest, due and owing as a result of reduction, suspension, termination or revocation of any exemption from or abatement or deferral of taxes granted pursuant to this part.
- (7) To make and promulgate regulations to carry out the purposes of this part including, but not limited to, regulations requiring applicants to publish notice of their applications, defining manufacturing and commercial activities and specifying the nature of work for which expenses may be included in the minimum required expenditure, provided, however, that any regulation increasing the minimum required expenditure shall not apply to any person who is a recipient on the effective date of such regulation. Such regulations shall include a requirement that with respect to the construction work recipients and their contractors shall be equal opportunity employers and shall also provide that persons employed in the construction work shall implement a training program for economically disadvantaged persons enrolled or eligible to be enrolled in training programs approved by the department of labor, with particular reference to city residents.

### **§ 11-264 Tax lien; interest rate.**

- a. All taxes plus interest required to be paid retroactively pursuant to this part shall constitute a tax lien as of the date it is determined such taxes and interest are owed. All interest shall be calculated from the date the taxes would have been due but for the exemption, abatement or deferral claimed pursuant to this part at three per centum above the applicable rate of interest imposed by the city generally for non-payment of real property tax on such date.
- b. All taxes for which payment is deferred pursuant to section 11-257 of this part shall constitute a tax lien as of the date they are due and payable in accordance with the provisions of that section.

### **§ 11-265 Penalties for non-compliance, false statements and omissions.**

- a. The department of finance may deny, reduce, suspend, revoke or terminate any exemption from or abatement or deferral of tax payments pursuant to this part whenever:
  - (1) a recipient fails to comply with the requirements of this part or the rules and regulations promulgated by the department of finance pursuant thereto; or
  - (2) an application, certificate, report or other document delivered by an applicant or recipient hereunder contains a false or misleading statement as to a material fact or omits to state any material fact necessary in order to make the statements therein not false or misleading, and may declare any applicant or recipient who makes such false or misleading statement or omission to be ineligible for future exemption, abatement or deferral pursuant to this part for the same or other property.
- b. Notwithstanding any other law to the contrary, a recipient shall be personally liable for any taxes owed pursuant to this part whenever such recipient fails to comply with such law and rules or makes such false or misleading statement or omission, and the department of finance determines that such act was due to the recipient's willful neglect, or that under the circumstances such act constituted a fraud on the department of finance or a buyer or prospective buyer of the property. The remedy provided herein for an action in personam shall be in addition to any other remedy or procedure for the enforcement of collection of delinquent taxes provided by any general, special or local law. Any lease provision which obligates a tenant to pay taxes which become due because of willful neglect or fraud by the recipient, or otherwise relieve or indemnify the recipient from any personal liability arising hereunder, shall be void as against public policy except where the imposition of such taxes or liability is occasioned by actions of the tenant in violation of the lease.

### **§ 11-266 Code violations; suspension of benefits.**

- a. If a court, or the environmental control board with respect to matters within its jurisdiction, finds that at the property which is the subject of a certificate of eligibility there has been a violation of any of the provisions of the building, fire and air pollution control codes set forth in subdivision b of this section, all benefits pursuant to such certificate shall be suspended unless within one hundred eighty days after the department of finance has sent notice of such finding to the recipient, and all other persons having a financial interest in the property who have filed a timely request for such notice in such form as may be prescribed by the department of finance, the recipient submits to the department of finance, certification from the department of buildings, the fire department or the department of environmental protection respectively that the underlying code violation has been cured. If the recipient fails to submit the required certification within the one hundred eighty day period, the period of suspension shall be effective retroactively to the time of the finding by the court or the environmental control board. The suspension of benefits shall continue until the recipient submits to the department of finance the required certification that the violation has been cured. If the original finding of violation or the denial of certification is appealed and a court or appropriate governmental agency finally determines that the finding of violation or denial of certification was invalid, any benefits lost pursuant to this section to which the recipient was entitled shall be restored retroactively. As applied to a recipient who is eligible for deferral of tax payments pursuant to subdivision d of section 11-257 of this part, suspension of benefits shall be deferred by operation of such section and interest at the rate charged by the department of finance for overdue taxes shall be charged on the amount of any tax payments already deferred by operation of such section. The interest charged shall accrue from the beginning of the period of suspension.
- b. The provisions of subdivision a of this section shall apply to violations of the following provision of the code:
  - (1) section 27-4260;
  - (2) section 27-4265;
  - (3) section 27-4267;
  - (4) section 27-954;
  - (5) section 27-339;
  - (6) subdivision (c) of section 27-353;
  - (7) paragraph twelve of subdivision (f) of section 27-972;

- (8) paragraph ten of subdivision (g) of section 27-972;
- (9) subdivision (c) of section 27-975;
- (10) subdivision (c) of section 27-989;
- (11) the following provisions to the extent applicable to cabarets as defined in article two of subchapter two of the building code:
  - (a) section 27-542;
  - (b) subparagraph d of paragraph two of subdivision (b) of section 27-547;
  - (c) paragraph three of subdivision (a) of section 27-549;
  - (d) subdivision (b) of section 27-549;
- (12) section 27-127 when the violation concerns an unsafe condition on a facade of a building which exceeds six stories in height;
- (13) section five hundred one of reference standard 13-1;
- (14) section one thousand three of reference standard 13-1;
- (15) paragraph six of subdivision (b) of section 24-178; and
- (16) section 24-185.

### **§ 11-267 Annual report.**

The department of finance shall submit an annual report to the council, on April first of each year, concerning the status of the program established pursuant to this part and its effects in the city, including information on certificates of eligibility issued and jobs created in each area where benefits are available.

## **Part 5: Abatement of Tax Payments For Certain Industrial and Commercial Properties**

### **§ 11-268 Definitions.**

When used in this part:

- a. "Commercial construction work" means the construction of a new building or structure or the modernization, rehabilitation, expansion or improvement of an existing building or structure for use as commercial property.
- b. "Commercial exclusion area" means an area as defined in subdivision d of section 11-274 of this part.
- c. "Commercial property" means nonresidential property on which will exist after completion of commercial construction work a building or structure, or portion thereof, used for the buying, selling or otherwise providing of goods or services including hotel services, or for other lawful business, commercial or manufacturing activities; provided that property or portions of property dedicated to utility property shall not be considered commercial property for purposes of this part.
- d. "Commissioner" means the commissioner of finance of the city of New York.
- e. "Completion of construction," or "completion," when relating to new construction, means the earlier of the date on which the department of buildings issues a final certificate of occupancy, or when the department has otherwise determined that construction is complete.
- f. "Department" means the department of finance of the city of New York.
- g. "Industrial construction work" means the construction of a new building or structure or the modernization, rehabilitation, expansion or improvement of an existing building or structure for use as industrial property.
- h. "Industrial property" means nonresidential property on which will exist after completion of industrial construction work a building or structure, or portion thereof, with at least seventy-five percent of the total net square footage of the property used or immediately available and held out for manufacturing activities involving assembling goods or the fabrication or processing of raw materials; provided that property or portions of property dedicated to utility property shall not be considered industrial property for purposes of this part.
- i. "Manufacturing activity" means an activity involving the assembly of goods or the fabrication or processing of raw materials, but shall not include:
  - (1) such activity when conducted for the purpose of retail sale on the premises; or
  - (2) utility services.
- j. "Minimum required expenditure" means the amount that an applicant must expend on construction work for a project in order to qualify for benefits as provided in this part.
- k. "Mixed-use property" means property on which exists, or will exist upon completion of construction work, a building or structure used for both residential and nonresidential purposes.
- l. "Renovation construction work" means the modernization, rehabilitation, expansion or improvement of an existing building or structure where such modernization, rehabilitation, expansion or improvement is physically and functionally integrated with the existing building or structure, or portion thereof, does not increase the bulk of the existing building or structure by more than thirty percent, and does not increase the height of the existing building or structure by more than thirty percent.
- m. "Residential construction work" means any construction, modernization, rehabilitation, expansion or improvement of dwelling units other than dwelling units in a hotel.
- n. "Restricted activity" means any entertainment activity that the department has identified in rules promulgated by such department pursuant to this part as an activity which, in the public interest, should not be encouraged through the benefits of this part.
- o. "Retail purposes" means any activity that consists predominately of (1) the final sale of tangible personal property or services by a vendor as defined in section eleven hundred one of the tax law, (2) the sale of services that generally involve the physical, mental, and/or spiritual care of individuals or the physical care of the personal property of individuals, (3) retail banking services, or (4) the final sale of food and/or beverage by a vendor as defined in section eleven hundred one of the tax law, including the assembly, processing or packaging of goods, provided that sales of such tangible personal property or services are predominately to purchasers who personally visit the facilities at which such sales are made or such property and services are provided. "Retail purposes" shall not include hotel uses as described in subdivision d of section 11-270 of this part.
- p. "Temporary commercial incentive area boundary commission" means a commission as defined in section 11-274 of this part.



q. "Utility property" means property and equipment as described in paragraphs (c), (d), (e), (f) and (i) of subdivision twelve of section one hundred two of the real property tax law that is used in the ordinary course of business by its owner or any other entity or property as described in paragraphs (a) and (b) of subdivision twelve of section one hundred two of such law that is owned by any entity that uses in the ordinary course of business property and equipment as described in paragraphs (c), (d), (e), (f) and (i) of subdivision twelve of section one hundred two of such law, without regard to the classification of such property and equipment for real property tax purposes pursuant to section eighteen hundred two of such law, except that any such property and equipment used solely to serve the building to which they are attached shall not be deemed utility property. Notwithstanding any provision of this part to the contrary, peaking units shall not be considered utility property. For purposes of this part, "peaking unit" shall mean a generating unit that: (a) is determined by the New York independent system operator or a federal or New York state energy regulatory commission to constitute a peaking unit as set forth in section 5.14.1.2 of the New York independent system operator's market administration and control area services tariff, as such term existed as of April first, two thousand eleven; or (b) has an annual average operation, during the calendar year preceding the taxable status date, of less than eighteen hours following each start of the unit; for purposes of calculating the annual average, operations during any period covered by any major emergency declaration issued by the New York independent system operator, northeast power coordinating council, or other similar entity shall be excluded. A "peaking unit" under this part shall include all real property used in connection with the generation of electricity, and any facilities used to interconnect the peaking unit with the electric transmission or distribution system, but shall not include any facilities that are part of the electric transmission or distribution system; it may be comprised of a single turbine and generator or multiple turbines and generators located at the same site. Notwithstanding any provision of this part to the contrary, a peaking unit shall be considered industrial property, provided however that the benefit period for a peaking unit shall be as set forth in paragraph two-a of subdivision c of section 11-269 of this part.

**§ 11-269 Industrial and commercial real property tax abatement.**

- a. Subject to the provisions of this part, tax abatement benefits shall be available to eligible recipients in accordance with the provisions of this section.
- b. *Amount of abatement base.*

(1) *Calculation of abatement base.* Except as provided in paragraph (5) of subdivision c of this section, the abatement base used to determine the amount of the abatement provided under this part shall be the amount by which the post-completion tax on a building or structure exceeds one hundred fifteen percent of the initial tax levied on a building or structure.

(2) *Initial tax on building or structure.*

(a) *Determination of initial tax.* The initial tax shall be determined by multiplying the final taxable assessed value, without regard to any exemptions, shown on the assessment roll with a taxable status date immediately preceding the issuance of the first building permit by the initial tax rate. For purposes of this subdivision, the initial tax rate shall be the final tax rate applicable to the assessment roll with a taxable status date immediately preceding the issuance of the first building permit. If no permit was required, the initial tax and the initial tax rate shall be determined based on the assessment roll with a taxable status date immediately preceding the commencement of construction.

(b) *Effect of tax lot apportionment or merger.* For a property as to which an applicant has applied for benefits pursuant to this part, if such property is apportioned or merged and such apportionment or merger is not reflected in the assessment roll described in subparagraph (a) of this paragraph, the initial tax for the newly created tax lot or lots shall be based on the initial tax of the lot or lots from which they have been created, which shall be apportioned among the newly created tax lot or lots in the manner established by the department for purposes of assessed valuation of real property.

(3) *Post-completion tax on building or structure.* For purposes of calculating the abatement base only, the post-completion tax is determined by multiplying the initial tax rate by the final taxable assessed value, without regard to any exemptions, that would be shown on the assessment roll but for the abatement, on the assessment roll with a taxable status date immediately following the earlier of:

- (a) completion of construction; or
- (b) four years from the date of issuance of the first building permit, or if no permit was required, the commencement of construction.

(4) (a) If the taxable assessed value is later reduced by a court order or application to the tax commission, then the initial tax or the post-completion tax shall be the tax as reduced.

(b) The taxable assessed value used for the calculations in this subdivision shall be the lower of the actual and transitional value as provided in subdivision three of section eighteen hundred five of this chapter.

(5) *Mixed-use property.* For a mixed-use property, the initial tax and post-completion tax shall be apportioned between the residential and nonresidential portions. The department may promulgate rules to determine the method of apportionment.

(6) *Initial taxes not to be reduced by abatement.* Except as provided in paragraph (5) of subdivision c of this section, the abatement provided under this part shall not be applicable in any year of the benefit period to the initial tax or to the tax on the portion of the assessment attributable to land. Additionally, the abatement shall not result in any credit or refund of real property taxes.

- c. *Industrial and commercial abatements.*

(1) *Abatement for commercial construction work.* Upon approval by the department of a final application for benefits, an applicant who has performed commercial construction work outside of a special commercial abatement area, as designated pursuant to subdivision b of section 11-274 of this part, or a renovation area, as defined by subdivision c of section 11-274 of this part, shall be eligible for an abatement of real property taxes, as follows:

(a) *Amount of abatement.* The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (i) completion of construction; or (ii) four years from the date the first building permit was used, or if no permit was required, the commencement of construction. For years one through eleven, the abatement shall be the amount of the abatement base. For years twelve through fifteen, the abatement shall decrease by twenty percent each year. The following table illustrates the abatement computation:

<b>Tax year during benefit period:</b>	<b>Amount of abatement:</b>
Years 1 through 11	100% of abatement base
12	80% of abatement base
13	60% of abatement base
14	40% of abatement base
15	20% of abatement base

(b) *Minimum required expenditure.* For commercial construction work, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted

activities shall not be included in the minimum required expenditure.

(2) *Abatement for industrial construction work or commercial construction work in special commercial abatement areas on buildings where not more than ten percent of the building or structure is used for retail purposes.* Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work in any area, where not more than ten percent of the building or structure on which such work has been performed is used for retail purposes, or commercial construction work in a special commercial abatement area, as designated pursuant to subdivision b of section 11-274 of this part, where not more than ten percent of the building or structure on which such work has been performed is used for retail purposes, shall be eligible for an abatement of real property taxes, as follows:

(a) *Amount of abatement.* The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (i) completion of construction; or (ii) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through sixteen, the abatement shall be the amount of the abatement base. The abatement shall be adjusted for inflation protection as provided in subparagraph (b) of this paragraph. For years seventeen through twenty-five, the abatement shall decrease by ten percent each year. The following table illustrates the abatement computation:

<b>Tax year during benefit period:</b>	<b>Amount of abatement:</b>
Years 1 through 16	100% of abatement base
17	90% of abatement base
18	80% of abatement base
19	70% of abatement base
20	60% of abatement base
21	50% of abatement base
22	40% of abatement base
23	30% of abatement base
24	20% of abatement base
25	10% of abatement base

(b) *Inflation protection.*

(i) *Industrial construction work.*

(A) *Effect of assessed valuation increases.* For years two through thirteen of the benefit period, except as provided in item (B) of this clause, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement base shall be determined using the initial tax rate.

(B) *Physical increases.* Notwithstanding the provisions of item (A) of this clause, if in any of years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(C) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(i) *Commercial construction work in special commercial abatement areas on buildings where not more than ten percent of the building or structure is used for retail purposes.*

(A) *Effect of assessed valuation increases.* For years two through thirteen of the benefit period, except as provided in item (B) of this clause, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year that exceeds five percent, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement base shall be determined using the initial tax rate.

(B) *Physical increases.* Notwithstanding the provisions of item (A) of this clause, if in any of the years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(C) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(ii) *Mixed-use property.* For a property as to which benefits are given for both industrial and commercial construction, the inflation protection provided under this subparagraph shall be based on the predominant use of the property as determined by the department.

(c) *Minimum required expenditure.* For industrial construction work or commercial construction work in a special commercial abatement area, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(2-a) *Abatement for industrial construction work on a peaking unit.* Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work in any area on a peaking unit, shall be eligible for an abatement of real property taxes, as follows:

(a) *Amount of abatement.* The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (i) completion of construction; or (ii) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through fifteen, the abatement shall be the amount of the abatement base. The abatement shall be adjusted for inflation protection as provided in subparagraph (b) of this paragraph. The following table illustrates the abatement computation:

<b>Tax year during benefit period:</b>	<b>Amount of abatement:</b>
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Years 1 through 15	100% of abatement base
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(b) *Inflation protection.*

(i) *Industrial construction work, effect of assessed valuation increases.* For years two through thirteen of the benefit period, except as provided in clause (ii) of this subparagraph, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement base shall be determined using the initial tax rate.

(ii) *Physical increases.* Notwithstanding the provisions of clause (i) of this subparagraph, if in any of years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(iii) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(c) *Minimum required expenditure.* For industrial construction work on a peaking unit, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(3) *Abatement for industrial construction work or commercial construction work in special commercial abatement areas on buildings where more than ten percent of the building or structure is used for retail purposes.* Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work in any area, where more than ten percent of the building or structure on which such work has been performed is used for retail purposes, or commercial construction work in a special commercial abatement area, as designated pursuant to subdivision b of section 11-274 of this part, where more than ten percent of the building or structure on which such work has been performed is used for retail purposes, shall be eligible for an abatement of real property taxes on the non-retail portion of such building or structure and up to ten percent of such building or structure used for retail purposes, in accordance with paragraph (2) of this subdivision, and shall be eligible for an abatement of real property taxes on the remaining retail portion of such building or structure, as follows:

(a) *Amount of abatement.* The first year of abatement shall be the tax year with the first taxable status date that follows the sooner of (i) completion of construction; or (ii) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through eleven, the abatement shall be the amount of the abatement base. For years twelve through fifteen, the abatement shall decrease by twenty percent each year. The abatement shall be adjusted for inflation protection as provided in subparagraph (b) of this paragraph. The following table illustrates the abatement computation:

Tax year during benefit period:	Amount of abatement:
Years 1 through 11	100% of abatement base
12	80% of abatement base
13	60% of abatement base
14	40% of abatement base
15	20% of abatement base

(b) *Inflation protection.*

(i) *Industrial construction work.*

(A) *Effect of assessed valuation increase.* For years two through thirteen of the benefit period, except as provided in item (B) of this clause, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediate prior tax year, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement shall be determined using the initial tax rate.

(B) *Physical increases.* Notwithstanding the provisions of item (A) of this clause, if in any of the years through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(C) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(i) *Commercial construction work in special commercial abatement areas on buildings where more than ten percent of the building or structure is used for retail purposes.*

(A) *Effect of assessed valuation increases.* For years two through thirteen of the benefit period, except as provided in item (B) of this clause, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year that exceeds five percent, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement base shall be determined using the initial tax rate.

(B) *Physical increases.* Notwithstanding the provisions of item (A) of this clause, if in any of years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(C) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(ii) *Mixed-use property.* For a property as to which benefits are given for both industrial and commercial construction, the inflation protection provided under this subparagraph shall be based on the predominant use of the property as determined by the department.

(c) *Minimum required expenditure.* For industrial construction work or commercial construction work in a special commercial abatement area, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding

the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(4) *Abatement for renovation construction work in renovation areas.* Subject to the provisions of subparagraph (c) of this paragraph, upon approval by the department of a final application for benefits, an applicant who has performed renovation construction work in a renovation area, as defined by subdivision c of section 11-274 of this part, shall be eligible for an abatement of real property taxes, as follows:

(a) *Amount of abatement.* For the renovation areas defined in paragraphs (1) and (2) of subdivision c of section 11-274 of this part, the first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (i) completion of construction; or (ii) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through eight, the abatement shall be the amount of the abatement base. For years nine through twelve, the abatement shall decrease by twenty percent each year. The following table illustrates the abatement computation:

<b>Tax year during benefit period:</b>	<b>Amount of abatement:</b>
Years 1 through 8	100% of abatement base
9	80% of abatement base
10	60% of abatement base
11	40% of abatement base
12	20% of abatement base

(b) *Amount of abatement.* For the renovation area defined in paragraph (3) of subdivision c of section 11-274 of this part, the first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (i) completion of construction; or (ii) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through five, the abatement shall be the amount of the abatement base. For years six through nine, the abatement shall decrease by twenty percent each year. In year ten, the abatement shall be twenty percent of the abatement base. The following table illustrates the abatement computation:

<b>Tax year during benefit period:</b>	<b>Amount of abatement:</b>
Years 1 through 5	100% of abatement base
6	80% of abatement base
7	60% of abatement base
8	40% of abatement base
9	20% of abatement base
10	20% of abatement base

(c) If more than five percent of any building or structure upon which renovation construction work is performed is used for retail purposes, no abatement shall be granted for the retail portions of such building or structure in excess of five percent, but five percent of such building or structure used for retail purposes shall be eligible for an abatement of real property taxes in accordance with subparagraph (a) or subparagraph (b) of this paragraph, as applicable; provided, however, that notwithstanding any other provision of this part, any building or structure located in the renovation area defined in paragraph (1) of subdivision c of section 11-274 of this part shall be eligible for an abatement in accordance with subparagraph (a) of this paragraph regardless of the amount of the building or structure used for retail purposes. (d) Minimum required expenditure. For renovation construction work in renovation areas, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for construction work on portions of the property to be used for retail purposes that exceed five percent of the building or structure in renovation areas defined in paragraphs (2) and (3) of subdivision c of section 11-274 of this part, for residential construction work, or for construction work on portions of the property to be used for restricted activities, shall not be included in the minimum required expenditure.

(5) *Additional industrial abatement.* In addition to the abatement for industrial construction work provided in paragraph (2) of this subdivision, an applicant who performs industrial construction work that meets the eligibility requirements set forth in this part shall be eligible for an additional abatement, calculated as a percentage of the initial tax, as follows:

(a) *Amount of abatement.* The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (i) completion of construction; or (ii) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. The amount of the additional industrial abatement shall be as follows:

<b>Tax year during benefit period:</b>	<b>Amount of additional abatement:</b>
Years 1 through 4	50% of the initial tax amount
5	40% of the initial tax amount
6	40% of the initial tax amount
7	30% of the initial tax amount
8	30% of the initial tax amount
9	20% of the initial tax amount
10	20% of the initial tax amount
11	10% of the initial tax amount
12	10% of the initial tax amount

(b) *Minimum required expenditure.* For the additional industrial abatement, the minimum required expenditure is forty percent of the property's taxable assessed value in the tax year with the taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(6) *Abatement for commercial construction work on new construction in certain areas of the borough of Manhattan.* Notwithstanding any other provision of law, upon approval by the department of a final application for benefits, an applicant who has performed commercial construction work on a new building or structure, in the geographical area as specified in subparagraph (d) of this paragraph, shall be eligible for an abatement of real property taxes, as follows:

(a) *Amount of abatement.* The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (i) completion of construction; or (ii) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through four, the abatement shall be the amount of the abatement base. For years five through eight, the abatement shall decrease by twenty percent each year. The following table illustrates the abatement computation:

<b>Tax year during benefit period:</b>	<b>Amount of abatement:</b>
Years 1 through 4	100% of abatement base
5	80% of abatement base
6	60% of abatement base
7	40% of abatement base
8	20% of abatement base

(b) *Minimum required expenditure.* The minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(c) *Special eligibility requirements.* Notwithstanding any other provision of this part, no benefits shall be granted pursuant to this paragraph unless the building or structure meets the requirements of clauses (i) and (ii) of this subparagraph, and further meets at least two of the requirements set forth in clauses (iii) through (vii) of this subparagraph:

- (i) The height of at least forty percent of the floors in such building or structure shall be not less than twelve feet, nine inches measured from the top of the slab comprising the floor to the bottom of the slab comprising the ceiling;
- (ii) Such building or structure shall be served by fiber-optic telecommunications wiring and shall contain vertical penetrations for the distribution of fiber optic cabling to individual tenants on each floor;
- (iii) The total square footage of such building or structure is not less than five hundred thousand gross square feet;
- (iv) A minimum of two hundred thousand gross square feet or twenty-five per centum of such building or structure is comprised of floors of not less than forty thousand gross square feet;
- (v) At least ten per centum of the gross square footage of such building or structure is comprised of floors that contain no more than eight structural columns, excluding any columns within the core or on the periphery of such building or structure;
- (vi) The electrical capacity of such building or structure is not less than six watts per net square foot;
- (vii) Emergency backup power sufficient to accommodate a need of six watts per net square foot is available in at least two hundred thousand gross square feet or twenty-five per centum of such building or structure.

(d) *Geographical area.* Abatements will only be granted for new construction work pursuant to this paragraph in the following geographical area; the area in the borough of Manhattan bounded by Murray Street on the north starting at the intersection of West Street and Murray Street; running easterly along the center line of Murray Street; connecting through City Hall Park with the center line of Frankfort Street and running easterly along the center line of Frankfort and Dover Streets to the intersection of Dover Street and South Street; running southerly along the center line of South Street to Peter Minuit Plaza; connecting through Peter Minuit Plaza to the center line of State Street and running northwesterly along the center line of State Street to the intersection of State Street and Battery Place; running westerly along the center line of Battery Place to the intersection of Battery Place and West Street; and running northerly along the center line of West Street to the intersection of West Street and Murray Street, except the area in the borough of Manhattan bounded by Church Street on the east starting at the intersection of Liberty Street and Church Street; running northerly along the center line of Church Street to the intersection of Church Street and Vesey Street; running westerly along the center line of Vesey Street to the intersection of Vesey Street and West Broadway; running northerly along the center line of West Broadway to the intersection of West Broadway and Barclay Street; running westerly along the center line of Barclay Street to the intersection of Barclay Street and Washington Street; running southerly along the center line of Washington Street to the intersection of Washington Street and Vesey Street; running westerly along the center line of Vesey Street to the intersection of Vesey Street and West Street; running southerly along the center line of West Street to the intersection of West Street and Liberty Street; and running easterly along the center line of Liberty Street to the intersection of Liberty Street and Church Street.

d. *Limitations on abatement.*

- (1) *Subsequent abatement.* With respect to any property that has received or is receiving abatement benefits under this part, an applicant shall not file a preliminary application for new abatement benefits under this part for an additional construction project on the same portion of the property for which construction work is the subject of abatement benefits under this part until at least four years have elapsed since the first day of the first tax year of such abatement benefits under the prior abatement, and, in the event that such new benefits are granted, then notwithstanding any other provision of this part or any other law, the initial tax for any such new abatement will be determined without regard to the prior abatement and any other abatement or exemption granted to the property.
- (2) Abatement benefits granted under this part shall not in any year exceed the real property taxes imposed on such property.
- (3) Once an abatement is granted, no additional benefits pursuant to this part shall be granted for construction work that is substantively a part of eligible construction work for which benefits have been approved or granted.
- (4) No benefits shall be granted for residential construction work.
- (5) Any parcel partly located in an excluded area shall be deemed to be entirely located in such area.
- (6) Where a tax lot contains multiple structures or buildings with eligible and non-eligible uses, the initial tax shall be apportioned under rules

promulgated by the commissioner and only the tax attributable to the eligible portion of the property shall be abated.

(7) (a) No benefits under this part may be received by a property that is concurrently receiving exemption or abatement of real property taxes under any other law, except for an exemption under (i) section four hundred twenty-a, four hundred twenty-b or four hundred fifty-nine-b of the real property tax law; or (ii) any section of the real property tax law as to which the city has enacted a local law to implement such exemption and as to which exemption is granted only if the property is the primary or legal residence of one or more of the owners of the property, including such sections in which exemption may be granted if an owner is absent from the residence while receiving medical benefits; or (iii) title two-D of article four of the real property tax law for a separate project involving separate parts of the building or structure that was completed prior to the application for benefits.

(b) For purposes of this paragraph, "property" means the real property contained by an individual tax lot.

(c) Notwithstanding subparagraph (b) of this paragraph, where a property is owned in condominium form, and an application for benefits under this part includes more than one tax lot in the same condominium, then for purposes of this paragraph, "property" shall include any or all such tax lots that are included in the application.

### **§ 11-270 Eligibility for benefits.**

a. *Time limit for meeting minimum required expenditure.* Applicants must meet the appropriate minimum required expenditure as provided in subdivision c of section 11-269 of this part relating to the abatement for which such project qualifies as follows:

(1) No later than four years from the date of issuance of the first building permit, or if no permit was required, the commencement of construction.

(2) Mixed use properties. Expenditures for construction work related to the common areas and systems of such property shall be allocated under rules promulgated by the department between the residential, nonresidential and retail, if any, portions of the property.

b. *Time limit for completion of construction.* Construction of buildings or structures for which benefits have been approved shall be completed no later than five years from the date of issuance of the first building permit, or if no permit was required, the commencement of construction. Failure to meet this requirement shall result in termination of any inflation protection provided under subdivision c of section 11-269 of this part for any tax year that begins following the date by which completion of construction is required under this paragraph.

c. *Non-permissible uses.* To be eligible for benefits, the property may not be used for a non-permissible purpose. Accordingly, no abatement benefits under this part shall be granted for work to be performed on property to be used for the following purposes:

(1) *Residential.* No abatement benefits under this part shall be granted for construction work for residential purposes, or for work on a structure or building where twenty percent or more of the total rentable square footage of such property is or will be dedicated to residential purposes, provided however that where less than five percent of a property's rentable square footage is or will be dedicated to residential purposes, that use shall be considered de minimus and shall not be considered in determining benefits under this part.

(a) For purposes of this paragraph, "property" means the real property contained by an individual tax lot.

(b) Notwithstanding subparagraph (a) of this paragraph, where a building or structure is owned in condominium form, and an application for benefits under this part includes more than one property in the same condominium, then for purposes of this paragraph, the five percent and twenty percent of the rentable square footage shall be determined based on the aggregate usage of all such properties.

(c) Hotel uses, as described in subdivision d of this section, shall not be considered residential.

(2) *Utility property.* No abatement benefits under this part shall be provided for utility property.

(3) *Restricted activity.* No benefits pursuant to this part shall be granted for construction work on property any part of which is to be used for a restricted activity.

d. *Hotel uses.* Benefits shall be available for commercial construction work or renovation construction work on a building or structure for the property's square footage used to provide lodging and support services for transient guests.

e. *Filing requirements.*

(1) *Time to file.*

(a) *Preliminary application.*

(i) *Building permit.* No benefits pursuant to this part shall be granted for any construction work unless the applicant filed a preliminary application for such benefits on or before the date of issuance of the first building permit for such work. This requirement may be satisfied where the applicant's architect, contractor or other representative authorized to file the application for such building permit files with the department on behalf of the applicant a preliminary application containing such information as the department shall prescribe by rule.

(ii) *No building permit required.* Where construction work does not require a building permit, a notarized letter from the project's architect or engineer notifying the department of this fact shall be filed within thirty calendar days of the commencement of construction. In such circumstance, such letter shall also satisfy the requirement of a preliminary application if the letter contains all of the information required for a preliminary application under rules prescribed by the department.

(b) *Final application.* Applicants shall file a final application for benefits no later than one year from the date of issuance of the first building permit for construction work, or, where construction work does not require a building permit, no later than one year from the date of commencement of construction.

(c) Notwithstanding any provision of law to the contrary, the time limit to file a final application for benefits as specified in subparagraph (b) of this paragraph shall not apply to brand-new construction from the ground up located on property purchased from the city of New York where such property which is the site of the new construction was purchased from the city of New York for the purposes of an eligible development pursuant to this article and where the sales agreement with the city of New York for such property includes a restriction preventing the sale or transfer of such property for a period of five years or more and where the first valuation and assessment for the purposes of property taxes occurred within that period of restriction from sale, provided the project meets the other requirements of this title.

(2) *Who may file for benefits.* An applicant shall be:

(a) obligated to any real property tax on the property, either by virtue of ownership or contract; or

(b) the record owner or lessee of property that is exempt from real property taxation who has entered into an agreement to sell or lease such property to another person. Such applicant shall be a co-applicant with such owner or lessee.

(3) *Applicant affidavit.* No benefits pursuant to this part shall be granted for any construction work unless the applicant provides, together with the final application, an affidavit setting forth the following information:

(a) a statement that within the seven years immediately preceding the date of the preliminary application for benefits, neither the applicant, nor any person owning a substantial interest in the property as defined in subparagraph (c) of this paragraph, nor any officer, director or general partner of the

applicant or such person was finally adjudicated by a court of competent jurisdiction to have violated section two hundred thirty-five of the real property law or any section of article one hundred fifty of the penal law or any similar arson law of another state with respect to any building, or was an officer, director or general partner of a person at the time such person was finally adjudicated to have violated such law; and

(b) a statement setting forth any pending charges alleging violation of section two hundred thirty-five of the real property law or any section of article one hundred fifty of the penal law or any similar arson law of another jurisdiction with respect to any building by the applicant or any person owning a substantial interest in the property as defined in subparagraph (c) of this paragraph or any officer, director or general partner of the applicant or such person.

(c) "Substantial interest" as used in this subdivision shall mean ownership and control of an interest of ten percent or more in a property or any person owning a property.

(d) If any person described in the statement required by subparagraph (b) of this paragraph is finally adjudicated by a court of competent jurisdiction to be guilty of any charge listed in such statement, the recipient shall cease to be eligible for benefits pursuant to this part and shall pay with interest any taxes for which an abatement was claimed pursuant to this part.

(4) *Minority-and women-owned business enterprises.* No benefits pursuant to this part shall be granted for any construction work unless the applicant participates in the program established in section 11-278 of this part to ensure meaningful participation of minority-and women-owned business enterprises in construction work for which the applicant receives benefits.

f. *Requirement to file income and expense statements.* No benefits pursuant to this part shall be granted for any property unless income and expense statements are filed for the property with respect to the tax year as to which the assessment roll described in paragraph (2) of subdivision b of section 11-269 of this part applies, and all subsequent tax years up to and including the tax year on which the assessment roll described in paragraph (3) of subdivision b of section 11-269 of this part applies.

g. *Co-application with public entity.* A co-applicant with a public entity may be eligible for abatement benefits, provided that for any period for which the property is exempt from real property tax because it is owned or controlled by a public entity, no benefits shall be available to such recipient under this part. Such recipient may receive benefits under this part when the property is no longer eligible for an exemption as follows:

(1) No benefits under this part shall be provided during the period of exemption;

(2) during such period of exemption, the years of the benefit period applicable to the project provided in subdivision c of section 11-269 of this part shall not be tolled, but shall run in accordance with the applicable schedule provided therein; and

(3) the recipient shall starting with the date the exemption ceases, and continuing until the abatement benefit period expires, receive the abatement benefits to which such recipient is entitled in the tax year that corresponds to the year of the benefit period provided in subdivision c of section 11-269 of this part.

(Am. 2021 N.Y. Laws Ch. 361, 8/2/2021, eff. 8/2/2021)

### **§ 11-271 Applying for benefits.**

a. *Application.*

(1) Application for benefits pursuant to this part may be made immediately following the effective date of the local law that added this section and continuing until March first, two thousand twenty-five.

(2) *Application content.* The preliminary and final applications shall be in any format designated by the commissioner, including electronic format. The applications shall require, and applicants shall provide, information and documentation sufficient to determine eligibility for abatement benefits. The required information and documentation for both applications shall be prescribed by the department by rule. Such information and documentation may include, but need not be limited to, certified statements related to the project, project costs, filings with other governmental entities, and work performed or to be performed on such project. At the department's sole discretion, an applicant may be required to furnish certified statements made by the applicant's architect or engineer or both.

(3) *Compliance.* The application shall also state that the applicant agrees to comply with and be subject to the rules issued from time to time by the department to secure compliance with all applicable city, state and federal laws or which implement mayoral directives and executive orders designed to ensure equal employment opportunity. Such application shall also state that the applicant agrees to comply with the program established by section 11-278 to ensure meaningful participation of minority and women-owned business enterprises in construction work for which the applicant receives benefits.

(4) *Affidavit of no violations.* No benefits pursuant to this part shall be granted for any construction work unless the applicant shall file with the application, the affidavit required under paragraph (3) of subdivision e of section 11-270 of this part.

(5) *Electronic filing of application.* The commissioner may, by rule, require any application for benefits under this part to be submitted electronically in such form and manner as the commissioner may determine. For good cause, the commissioner may waive any rule requiring electronic filing and may permit an application to be filed in another manner.

b. *Fees.* The department may provide by rule for reasonable administrative charges or fees necessary to defray expenses in administering this benefit program.

c. (1) No benefits pursuant to this part shall be granted for construction work performed pursuant to a building permit issued after April first, two thousand twenty-five.

(2) If no building permit was required, then no benefits pursuant to this part shall be granted for construction work that is commenced after April first, two thousand twenty-five.

(Am. 2015 N.Y. Laws Ch. 20 Pt. A §§ 59, 60, 6/26/2015, eff. 6/26/2015; Am. 2017 N.Y. Laws Ch. 61, 6/29/2017, eff. 6/29/2017; Am. 2020 N.Y. Laws Ch. 56, 4/3/2020, eff. 4/3/2020)

### **§ 11-272 Reporting requirement.**

a. *Continuing use.* For the duration of the benefit period, the recipient of benefits shall file biennially with the department, on or before the appropriate taxable status date, a statement of the continuing use of such property and any changes in use that have occurred, provided, however, that any recipient of benefits receiving benefits for property defined as a peaking unit shall file such statement biannually. This statement shall be in a form determined by the department and may be in any format the department determines, in its discretion, is appropriate, including electronic format. The department shall have authority to terminate such benefits upon failure of a recipient to file such statement by the appropriate taxable status date. The burden of proof shall be on the recipient to establish continuing eligibility for benefits and the department shall have the authority to require that statements filed under this subdivision be certified.

b. *Conversion of construction.* A recipient shall file an amendment to the latest statement of continuing use prior to:

(1) converting square footage within property that is the subject of benefits for industrial construction work from use for the manufacturing activities described in such statement of continuing use where such conversion would result in less than sixty-five percent of total net square footage being used or

held out for use for manufacturing activities; or

(2) converting any portion of property that is the subject of benefits for industrial construction work for use for any restricted activity or as residential property.

(3) For all other use conversions, applicants shall immediately notify the department of a change in use, in a manner that the department may determine.

c. *Minimum required expenditure.* No later than sixty days after the minimum required expenditure must be made under subdivision a of section 11-270 of this part, the applicant shall submit to the department a certified statement that the applicant has made the minimum required expenditure as required by this part.

### **§ 11-273 Conversion of property.**

a. *Conversion from commercial to industrial use.* Where a property has been granted benefits for commercial or renovation construction work, but such property is used as industrial property before the benefits period expires, such property shall continue to receive benefits for commercial or renovation construction work.

b. *Conversion from industrial use to commercial use.* Where a property has been granted benefits for industrial construction work, and where, before the benefit period expires, less than seventy-five percent of the total net square footage is used or held out for use for manufacturing activities, no further benefits for industrial construction work shall be provided except as provided in this subdivision. Taxes, together with interest, shall become due and owing after such date of the use for purposes other than industrial, except as provided in this subdivision.

(1) Any applicant whose property has been granted a tax abatement under this part for industrial construction work in a special commercial abatement area who would have been eligible to receive benefits for commercial construction work at the time such applicant applied for benefits shall continue to receive an abatement for industrial construction work.

(2) Any applicant whose property has been granted benefits under this part for industrial construction work other than in a special commercial abatement area who would have been eligible to receive benefits for commercial construction work at the time such applicant applied for benefits shall, commencing with the date of conversion to commercial property and continuing until the expiration of the benefit period for commercial construction work, receive any abatement which such applicant would have received in the corresponding tax year pursuant to the benefits granted for commercial construction work.

(3) Any applicant whose property has been granted benefits under this part for industrial construction work in any area of the city on whose property at least sixty-five percent of the net square footage continues to be used or held out for use for manufacturing activities after conversion to commercial property, shall not be required to pay the pro rata share of tax for which an abatement was claimed during the tax year in which such conversion occurred.

(4) Where the property is receiving the additional industrial abatement pursuant to paragraph (5) of subdivision c of section 11-269 of this part, such additional industrial abatement shall cease from the date of conversion to commercial property.

c. *Conversion to restricted use.* Any applicant whose property has been granted benefits for commercial, industrial or renovation construction work, and who uses such property for any restricted activity prior to the expiration of the benefit period, shall cease to be eligible for further abatement as of the date such property was first used for any restricted activity. Such recipient of benefits that cease under this subdivision shall pay with interest any taxes for which an abatement was claimed after such date, including the pro rata share of tax for which any abatement was claimed during the tax year in which such use occurred.

d. *Conversion to residential use.*

(1) Any applicant whose property has been granted benefits for commercial, industrial or renovation construction work and who, before the benefit period expires, uses the property or a portion of the property as residential property, shall cease to be eligible for further abatement for commercial, industrial or renovation construction work as of the date such property was first used as residential property, as follows:

(a) if twenty percent or more of the rentable square footage of the property is used as residential property, then the entire building shall cease to be eligible for further abatement;

(b) if less than twenty percent of the rentable square footage of the property is used as residential property, then that portion of such property used as residential property shall cease to be eligible for further abatement;

(c) notwithstanding subparagraph (b) of this paragraph, where less than five percent of a property's rentable square footage is used as residential property, that use will be considered de minimis and will not be a basis for benefits to cease under this subdivision; and

(d) such recipient of benefits that cease under this subdivision shall pay, with interest, any taxes for which an abatement was claimed after the conversion of the property as described in this subdivision, including the pro rata share of tax for which such abatement was claimed during the tax year in which such use occurred. The abatement shall continue for the commercial, industrial or renovation construction work for the portion of the property that continues to be used for commercial purposes.

(2) For purposes of paragraph (1) of this subdivision, "property" means the real property contained by an individual tax lot.

(3) Notwithstanding paragraph (2) of this subdivision, where a building or structure is owned in condominium form, and an application for benefits under this part includes more than one property in the same condominium, then for purposes of this subdivision, the five percent and twenty percent of the rentable square footage shall be determined based on the aggregate usage of all such properties.

e. *Conversion to retail use.*

(1) Where a property has been granted benefits for industrial or commercial construction work in special commercial abatement areas on buildings where not more than ten percent of the building or structure is used for retail purposes and where, before the benefit period expires, the property or a portion thereof is converted so that ten percent or more of the building or structure is used for retail purposes, the department shall recalculate the abatement upon conversion as provided in subdivision six of this section.

(2) Where a property has been granted benefits for renovation construction work in renovation areas and where, before the benefit period expires, the property or a portion of the property is converted so that more than five percent of the building or structure is used for retail purposes, the department shall recalculate the abatement upon conversion as provided in subdivision f of this section.

e-1. *Conversion of use by peaking units.* Any applicant whose property has been granted benefits under this part for industrial construction work as a peaking unit and who converts such property in any tax year to a use that no longer qualifies it as a peaking unit, or who uses such property in a manner inconsistent with the definition of a peaking unit, shall be ineligible for abatement benefits during any such tax year. Any such recipient of benefits shall pay with interest taxes for which an abatement was claimed during any portion of such tax year.

f. *Recalculation of abatement upon conversion.* If, during the benefit period, a recipient converts square footage within any building or structure, the department may recalculate the benefit granted pursuant to this part to reflect the benefit for which the current use is eligible under this part and rules that may be promulgated by the department.



g. The burden shall at all times be on the recipient to demonstrate by clear and convincing evidence that property subject to benefits under this part is used as stated in the preliminary and applications for benefits filed by the recipient with the department.

### **§ 11-274 Temporary commercial incentive area boundary commission; designation of special commercial abatement areas; excluded and renovation areas.**

a. *Commission members.* There shall be a temporary commercial incentive area boundary commission to consist of a deputy mayor designated by the mayor, the commissioner of finance, the chair of the city planning commission, the director of management and budget, the borough presidents, the speaker of the city council and a public member appointed by the mayor to serve at the mayor's pleasure. Each member except the public member shall have the power to designate an alternate to represent him or her at commission meetings to exercise all the rights and powers of such member, including the right to vote, provided that such designation be made in writing to the chair of the commission. The deputy mayor designated by the mayor shall serve as commission chair. Each borough president shall be entitled to vote only on the designation of areas within his or her borough. Commission members who shall be officers or employees of such city shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties. Any other commission member shall receive as exclusive compensation for his or her services one hundred dollars per diem, or another reasonable amount as determined by the deputy mayor designated by the mayor, provided, however, that the total compensation paid to any such member shall not exceed twelve hundred dollars for any calendar year, or another reasonable amount determined by the deputy mayor designated by the mayor. A majority of members of such commission entitled to vote on a matter shall constitute a quorum for such issue. Decisions shall be made by majority vote of those present entitled to vote on a matter. Notwithstanding any other law to the contrary, no officer or employee of the state or any of its subdivisions or any public benefit corporation shall be deemed to have forfeited his or her office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of accepting membership on such commission.

b. *Designation of special commercial abatement areas.*

(1) The commission shall meet in two thousand nine or two thousand fifteen and at least once every five years thereafter to determine the boundaries of special commercial abatement areas which it is authorized, but not required, to designate pursuant to this section. The areas designated by the commission established pursuant to title two-D of article four of the real property tax law in effect as of June thirtieth, two thousand eight shall remain in effect until the first taxable status date after the city council approves a new designation pursuant to paragraph (4) of this subdivision or, if the local legislative body does not approve a new designation before January first, two thousand sixteen, then, for purposes of applications for special commercial abatement area benefits, the areas designated by the commission established pursuant to title two-D of article four of the real property tax law in effect as of June thirtieth, two thousand eight shall remain in effect until December thirty-first, two thousand fifteen.

(2) In years when special commercial abatement areas are to be designated, no later than October first, the commission shall provide public notice of such designation by publishing a notice at least once in a newspaper of general circulation setting forth the proposed boundaries. Notice may also be provided electronically or in an electronic medium, such as a website, in a manner the commission determines to be appropriate. Notice must be provided not earlier than five nor later than fifteen days before the date of the commission's public hearing to hear all persons interested in the designation of the areas. The notice required by this paragraph shall be published in the City Record and a newspaper of general circulation in the city, and copies thereof shall be forwarded to each council member and community board.

(3) The commission shall make such designation, and notify the city council of such designation, not later than November first of each year when special commercial abatement areas are to be designated.

(4) Within thirty days after the first stated meeting of the city council following the receipt of notice of such designation, the city council may, by majority vote, disapprove such designation. If, within such thirty-day period, the city council fails to act or fails to act by the required vote, the city council shall be deemed to have approved such designation. Such designation shall take effect on the first taxable status date after the city council approves such designation and shall remain in effect until the first taxable status date after the city council approves such new designation.

(5) The commission may designate any area other than the area lying south of the center line of 96th Street in the borough of Manhattan, to be a special commercial abatement area if it determines that market conditions in the area are such that the availability of a special abatement is required in order to encourage commercial construction work in such area. In making such determination, the commission shall consider, among other factors, the existence in such area of a special need for commercial and job development, high unemployment, economic distress or unusually large numbers of vacant, underutilized, unsuitable or substandard structures, or other substandard, unsanitary, deteriorated or deteriorating conditions, with or without tangible blight.

(6) If the commission fails to meet in two thousand fifteen, all new applications for special commercial abatement area benefits postmarked after December thirty-first, two thousand fifteen shall be deemed applications for regular area benefits.

c. *Renovation areas.* The following areas in the borough of Manhattan shall be designated as renovation areas. Except as provided in paragraph (6) of subdivision c of section 11-269 of this part, new commercial construction in a renovation area shall not be eligible for abatement benefits. Renovation areas shall be limited to:

(1) the area in the borough of Manhattan bounded by Murray Street on the north starting at the intersection of West Street and Murray Street; running easterly along the center line of Murray Street; connecting through City Hall Park with the center line of Frankfort Street and running easterly along the center line of Frankfort and Dover Streets to the intersection of Dover Street and South Street; running southerly along the center line of South Street to Peter Minuit Plaza; connection through Peter Minuit Plaza to the center line of State Street and running northwesterly along the center line of State Street to the intersection of State Street and Battery Place; running westerly along the center line of Battery Place to the intersection of Battery Place and West Street; and running northerly along the center line of West Street to the intersection of West Street and Murray Street;

(2) the area in the borough of Manhattan defined as the special garment center district by chapter one of article XII of the zoning resolution of the city; and

(3) the area in the borough of Manhattan south of the center line of 59th street, other than the areas designated renovation areas by paragraphs (1) and (2) of this subdivision.

d. *Commercial exclusion area.* Except as provided in paragraph (6) of subdivision c of section 11-269 of this part, any area in the borough of Manhattan lying south of the center line of 96th Street, other than the area designated renovation areas by subdivision c of this section, shall be a commercial exclusion area. Commercial construction projects in the commercial exclusion area shall not be eligible to receive tax abatements pursuant to this part.

e. Eligible industrial construction projects may receive tax abatements pursuant to paragraphs (2) and (5) of subdivision c of section 11-269 of this part in any area of the city.

(Am. 2015 N.Y. Laws Ch. 271, 9/25/2015, eff. 9/25/2015)

### **§ 11-275 Administration of the benefit program.**

The department shall have the following additional functions, powers and duties:

- a. To require that any documents submitted in support of or as part of an application be certified;
- b. To audit documents submitted by an applicant, to require the production of books, records and documents with respect to information relating to any

application made pursuant to, or whether the applicant has complied with, the requirements of this part;

- c. To revoke or suspend benefits due to non-compliance with a request made under this section;
- d. to enter and inspect property to determine a property's use and to determine whether
  - (1) any such property is being used for any restricted use, or
  - (2) any property for which benefits have been granted for industrial construction work is being used as commercial property, or
  - (3) any industrial or commercial property is being used as residential or mixed-use property, or
  - (4) all or part of the nonresidential portion of mixed-use property is being used as residential property;

e. To make and promulgate a rule that increases up to fifty percent the amount of the minimum required expenditure required under this part, if, after consultation with the deputy mayor for economic development and planning, the commissioner determines that a greater minimum required expenditure is required to encourage significant industrial and commercial development; and

f. To make and promulgate any other rules to carry out the purposes of this part. Such rules shall provide that for construction work, recipients of benefits and their contractors shall be equal opportunity employers and may also provide that persons employed in the construction work shall implement a training program for economically disadvantaged persons enrolled or eligible to be enrolled in training programs approved by the department of labor.

### **§ 11-276 Penalties for non-compliance, false statements and omissions.**

*Denial, reduction, suspension, termination or revocation.* The department may deny, reduce, suspend, terminate or revoke any abatement benefits where:

- a. A recipient fails to comply with the requirements of this part or the related rules promulgated by the department; or
- b. An application, certificate, report or other document delivered by an applicant or recipient hereunder contains a false or misleading statement as to a material fact or omits to state any material fact necessary to make the statements not false or misleading, and may declare any applicant or recipient who makes such false or misleading statement or omission ineligible for future tax abatements for this property or another property.

### **§ 11-277 Code violations; suspension of benefits.**

a. If a court, or the environmental control board with respect to matters within its jurisdiction, finds that there has been a violation of the city construction codes, the 1968 building code or other law or rule enforced by the department of buildings classified as immediately hazardous pursuant to chapter two of title twenty-eight of the administrative code or the rules of the department of buildings; a violation of subdivision a of section 1-102 of title fifteen of the rules of the city of New York; or a violation of the city fire code or title three of the rules of the city of New York, relating to the failure to provide a fire protection system or emergency power system, or maintain it in good working order, to prepare or, where required, submit for fire department approval, a fire safety and evacuation plan or emergency action plan, or to provide a fire safety and evacuation plan or emergency action plan staff, or relating to the obstruction of a means of egress at any property receiving benefits pursuant to this part, such benefits shall be suspended unless, within one hundred eighty days after the department of finance has sent notice of such finding to the recipient, the recipient submits to the department of finance documentation from the department of buildings, the department of environmental protection or the fire department, whichever is applicable, certifying that the underlying violation has been legally cured or corrected. Such notice may be in any form determined by the department of finance, including in electronic form, and shall be sent to the recipient on the next quarterly statement of account after the department of finance has learned of such finding. If the recipient fails to make the required submission within the one hundred eighty day period, the suspension of benefits shall continue until the recipient makes such submission to the department of finance. After the recipient makes such submission, benefits shall resume, but benefits lost during the period of suspension shall not be restored.

b. If the original finding of violation or denial of certification is appealed and a court or appropriate governmental agency finally determines that the finding of violation or denial of certification was invalid or erroneous, all benefits to which the recipient was otherwise entitled shall be restored retroactively.

### **§ 11-278 Participation by minority- and women-owned business enterprises.**

a. *Policy and program established.* It is the policy of the city to encourage meaningful participation of minority- and women-owned business enterprises in construction work for which an applicant receives benefits under this part. A program is hereby established to further the stated policy that will be administered by the division of economic and financial opportunity within the department of small business services, or any successor thereto, in accordance with the provisions of this section.

b. *Definitions.* For purposes of this section, the following terms shall have the following meanings:

1. "Directory" shall have the same meaning as provided in paragraph thirteen of subdivision c of section 6-129 of this code.
2. "Division" shall mean the division of economic and financial opportunity within the department of small business services.
3. "Minority-owned business enterprise" shall mean a minority-owned business enterprise certified in accordance with section 1304 of the charter.
4. "Women-owned business enterprise" shall mean a women-owned business enterprise certified in accordance with section 1304 of the charter.

c. *Information to be provided with the application for benefits.* The department shall provide with the application for benefits information concerning how an applicant can access the directory from the division. Making such information available may include, but need not be limited to, providing information to applicants on how to access and search the directory in electronic format. The application shall also include information concerning an applicant's obligations under this part.

d. For construction projects under \$750,000 in cost, the applicant shall certify that it accessed the directory. The applicant shall file such certification with the department and the division in conjunction with the final application for benefits along with a report of whether or not efforts were made by the applicant to include minority- and women-owned business enterprises in the construction work on property for which benefits are sought in accordance with this part, and if so, what such efforts were.

e. For construction projects \$750,000 in cost and over, the applicant must comply with the following requirements in order to obtain benefits under this part:

1. Subsequent to filing a preliminary application for benefits, the applicant shall inform the division of contracting and subcontracting opportunities at construction sites where the applicant will be performing construction work subject to benefits pursuant to this part. The division shall make information on such contracting and subcontracting opportunities available to the general public by posting such opportunities on its website.

2. The applicant shall review the directory to identify minority- or women-owned business enterprises that may be qualified to perform contracting or subcontracting work on construction projects subject to benefits pursuant to this part.

3. For each subcontract on the project, the applicant shall solicit or arrange for the solicitation of bids from at least three of such minority- or women-owned enterprises to perform such subcontracting work.

4. The applicant shall maintain records demonstrating its compliance with the provisions of this subdivision.

5. When filing a final application for benefits with the department, the applicant shall certify that it has complied with and will continue to comply with the provisions of this subdivision. The certification shall also include: (i) the name and contact information of every minority- or women-owned business enterprise that the applicant solicited bids from pursuant to the provisions of paragraph three of this subdivision and (ii) whether any such minority- or women-owned firm was awarded a subcontract. The applicant shall also file such certification with the division at the time of filing the final application for benefits.

6. An applicant awarded benefits pursuant to this part shall timely inform the division of contracting and subcontracting opportunities that may become available after the date such benefits are awarded at construction sites where the applicant will be performing construction work subject to such benefits. The division shall make information about such opportunities available to the public on its website.

f. The division shall have authority to audit the records maintained by each applicant pursuant to paragraph four of subdivision e of this section to ensure compliance with the requirements of such subdivision.

(Am. L.L. 2018/012, 12/31/2017, eff. 4/30/2018)

**Editor's note:** For related unconsolidated provisions, see Appendix A at L.L. 2018/012.