

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Monday, December 21, 2009

The Common Council was convened at 7:00 p.m. and was called to order by Council President Morris.

The roll being called, the following answered to their names: Council Members Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons.

Also present was the following staff: John Marsolais, Patrick Jordan, Barbara Samel and Cashawna Parker.

Council Member Ellis led the Pledge of Allegiance.

Council President Morris gave her end of the year address.

PUBLIC COMMENT PERIOD

1. Marlon Anderson, 491 Livingston Ave., Albany, NY 12206 (Various Issues)
2. Joe Cunniff, 10 Crosswell St., Albany, NY 12206 (Public Access TV)
3. Tim Carney, 277 Delaware Ave., Albany, NY 12209 (Good Luck to Incoming and Outgoing Council Members)
4. Betsy Mergliano, 3 Wilbur St., Albany, NY 12204 (YMCA Closing)
5. Robert McRae, 12 Leonard Dr., Delmar, NY 12054 (Plumbing, Heating & Electric Code Changes)
6. Emily Calbrese, P.O. Box 606, Cairo, NY 12413 (Plumbing, Heating & Electric Code Changes)
7. Anton Konev, 268 Washington Ave. Apt. 1E, Albany, NY 12203 (Thank You to Council Members)

Council Member Conti made a motion to extend Public Comment Period for an additional 10 minutes, which was approved by unanimous voice vote.

8. Brian Levine, 43 Buell St., Albany, NY 12206 (Recognizing Outgoing Council Members)
9. Vincent Riguso, 13 Beach Ave., Albany, NY 12203 (Various Issues)

There being no further speakers, the President declared the Public Comment Period closed.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Council Member Conti made a motion to approve the minutes of the October 5, October 19, November 2, November 16 and December 7, 2009 meetings, which was approved by unanimous voice vote.

CONSIDERATION OF LOCAL LAWS

Council Member Rosenzweig introduced the following for the purposes of introduction;

LOCAL LAW J – 2009

A LOCAL LAW ESTABLISHING A RESIDENCY REQUIREMENT FOR ALL CITY EMPLOYEES

BE IT ENACTED by the Common Council of the City of Albany as follows:

Section 1. Chapter 62 of the Code of the City of Albany shall be amended by adding a new Section 62-1-a to read as follows:

Section 62 -1-a. Employee Residency.

A. Purpose. The legislative body determines that individuals who are employees of the City of Albany take a greater interest, commitment and involvement with the government which employs them by living within that municipality. Thus, the Common Council believes that the public need is sufficient to require that employees hired after the effective date of this section be residents of the City of Albany.

B. This section shall not supersede or override any other residency provision existing in state or federal law or existing in the Code of Ordinances of the City of Albany found to be contrary to the provisions herein. This section shall affect all city employees, including all provisional, permanent and temporary employees.

C. Residency for new employees. Except as otherwise provided by this section, the Common Council hereby establishes a residency requirement for all prospective employees of the City. Every person initially employed by the City of Albany, shall, as a qualification of employment, be or become a resident of the City of Albany within six months of the date of initial appointment for said City. Furthermore, during the time of service of such employees, no employee shall cease to be a resident of the City of Albany, and such shall be deemed a voluntary resignation.

D. Board of Residency. There is hereby created by this section a Board of Residency. This Board shall consist of five members, one such member to be the Mayor of the City of Albany or the Mayor's appointee, one by the Corporation Counsel of the City of Albany and three Council members. All members of this Board shall be City of Albany Residents. The Board shall have the following powers and obligations:

(1) The Board shall, upon written request of the Mayor, make a determination granting an annual waiver of the residency requirement to any city employee and thereby exempt said employee from the provisions of this section. This determination shall be based upon one or more of the following criteria: (a) The degree of specialization and professionalism required in any given field of employment; (b) The existence of hardship such as may be determined by the Board.

Section 2. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.

Council Member Conti made a motion to hold the remaining Local Laws on the pending agenda, which was approved by unanimous voice vote.

REPORTS OF STANDING COMMITTEES

Law, Buildings and Code Enforcement - Council Member Igoe stated that the Committee met on December 14, 2009 to discuss Ordinance Number 33.41.09, which was favorably recommended. He stated Ordinance Number 48.62.09, Ordinance Number 52.71.09, Ordinance Number 55.82.09, and Ordinance Number 65.101.09, were favorably recommended with some changes. He stated that Ordinance Number 69.112.09 (MC) was held for further discussion.

CONSIDERATION OF ORDINANCES

Council Member Calsolaro moved to amend Ordinance 55.82.09, and as amended asked for passage and a roll call vote thereon:

Ordinance Number 55.82.09 (as amended)

AN ORDINANCE AMENDING SECTION 359-22 (PARKING, STANDING AND STOPPING RESTRICTIONS) OF CHAPTER 359 (VEHICLES AND TRAFFIC) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO ENGINE IDLING

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Legislative intent. Air pollution continues to threaten the lives and health of millions of people in the United States despite great progress since the modern Clean Air Act was first passed in 1970. Even as the nation explores the complex challenges of global warming and energy, air pollution remains widespread and dangerous. This year marks the tenth annual American Lung Association State of the Air report. This 2009 report looks at ozone and particle pollution year-round and over short-term levels of particle pollution found in monitoring sites. In the 2009 report, Albany County received an “F” grade for air quality.

This ordinance to restrict engine idling, is intended to produce a variety of environmental and public health benefits at little or no cost to drivers. Air pollution from vehicles in Albany contributes to our high levels of ozone. Poor air quality leads to increased risk of asthma, heart disease and other ailments. Pollution emitted from vehicles is an important element of the City’s contribution to climate-changing greenhouse gases. Because engine idling exacerbates these problems while producing little benefit, idling restrictions should reduce air pollution problems without creating severe inconveniences for City drivers.

Section 2. Section 359-22(J) of Chapter 359 of the Code of the City of Albany is hereby amended to read as follows:

§ 359-22. Parking, standing and stopping restrictions.

Except as otherwise designated by official signs, signals or markings, the following restrictions will apply in the City of Albany. Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a police officer or official traffic control device, no person shall:

J. Cause or permit the [diesel] engine of a [bus, as defined in § 104 of the Vehicle and Traffic Law] commercial motor vehicle, other than a legally authorized emergency motor vehicle or a television transmission vehicle, to idle for more than five minutes while parking, standing or stopping, except that a bus, as defined in § 104 of the Vehicle and Traffic Law may idle while passengers are on board or while boarding or discharging passengers.

Section 3. This ordinance shall take effect immediately.

**Note: There was discussion from Council Member Calsolaro regarding the amendments to the ordinance to exclude TV transmission vehicles and emergency motor vehicles.*

Ordinance Number 55.82.09 (As Amended) was Co-Sponsored by Council Members Ellis, Sano and Smith.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O’Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Member Igoe moved to amend Ordinance 33.41.09, and as amended asked for passage and a roll call vote thereon:

Ordinance Number 33.41.09 (as amended)

AN ORDINANCE AMENDING CHAPTER 363 (VENDORS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PURCHASES

The City of Albany in Common Council convened, does hereby ordain and enact:

Section 1. Chapter 363 (Vendors) of the Code of the City of Albany is amended to read as follows:

CHAPTER 363. VENDORS

§ 363-1. Findings.

It is found and declared that:

A. The business of vending merchandise and refreshments in the public streets, sidewalks, places and from door to door in the City of Albany should be regulated to protect the public health, safety and welfare of the inhabitants of the City of Albany.

B. Reasonable regulation of vending is necessary for the prevention of congestion of traffic and travel.

C. Persons engaged in the business of vending should be required to be licensed and to furnish such information as necessary to effectively carry out the purposes of this chapter.

D. Unless specifically authorized by this chapter, vending in the City of Albany within any public right-of-way, sidewalk or place is prohibited.

§ 363-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

PURCHASE

To obtain merchandise in exchange for money or its equivalent. The act or an instance of buying merchandise on the public streets, sidewalks or places or from door to door in the City of Albany.

PURCHASER

Any person engaged in the buying of merchandise, by means of money or its equivalent, on the public streets, sidewalks or places in the City of Albany.

VEND

The act of selling or offering for sale, or the act of purchasing or offering to purchase for commercial purposes, refreshments or merchandise on the public streets, sidewalks or places or from door to door in the City of Albany, from a stand, motor vehicle or from the person.

VENDOR

Any person engaged in the selling or offering for sale, or engaged in purchasing or offering to purchase for commercial purposes, of refreshments or merchandise on the public streets, sidewalks or places or from door to door in the City of Albany, from a stand, motor vehicle or from the person.

§ 363-5. License fees.

License fees shall be payable in full, for the entire season, upon application for said license and shall be as follows:

A. To vend refreshments:

(1) Curbside vendor: \$70 per week.

(2) Sidewalk vendor: \$35 per week.

(3) Ice cream truck vendor: \$750 per year.

B. To vend flowers: \$375 per year.

C. To vend balloons: \$50 per year.

D. To vend merchandise from door to door: \$200 per year.

E. To vend merchandise from a vehicle: \$500 per year.

§ 363-8. Requirements for vendors of merchandise using a vehicle for vending.

A. Unless otherwise provided, a licensed vendor of merchandise using a vehicle for said purpose shall be authorized to operate at a specific location in the commercial zones of the City of Albany. The license shall specify the location within the commercial zone from which purchasing is permitted and shall only be valid for purchasing at that location. There shall only be one vehicle in a designated location.

B. The license may limit the amount of space to be occupied.

§ 363-[8] 9. Requirements for door-to-door vendors.

§ 363-[10] 11. Term and form of license.

§ 363-[11] 12. Nonissuance of license.

§ 363-[12] 13. Display of licenses.

§ 363-[13] 14. Transfer of license.

§ 363-[14] 15. Renewal of license.

§ 363-[15] 16. Suspension or revocation of license.

§ 363-[16] 17. Effect of license revocation.

§ 363-[17] 18. Penalties for offenses.

§ 363-[18] 19. Severability.

Section 2. Except as herein amended Chapter 363 of the Code of the City of Albany is hereby ratified, continued and approved.

Section 5. This ordinance shall take effect immediately after passage.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Member Igoe asked for passage of Ordinance Number 52.71.09 (AN ORDINANCE AMENDING CHAPTER 171 (ELECTRICITY) OF THE CODE OF THE CITY OF ALBANY), which had been previously introduced.

**Note: There was discussion from Council Member Igoe stating that this ordinance was for an increase in applicable fines which had not been updated in sometime.*

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Member Igoe moved to amend Ordinance 65.101.09, and as amended asked for passage and a roll call vote thereon:

Ordinance Number 65.101.09 (as amended)

AN ORDINANCE ESTABLISHING A NEW CHAPTER 225 (HEATING) OF THE CODE OF THE CITY OF ALBANY

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. A new Chapter 225 entitled "Heating" is hereby added to read as follows:

CHAPTER 225. HEATING

§ 225-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADMINISTRATOR

The Director of the Building Department or his/her designee.

APPRENTICE

A person employed by a licensed heat technician performing heating work for which a permit is required under the direct and immediate supervision of a journeyman heat technician. An "apprentice" must be at least 18 years of age.

APPRENTICE TRAINING PERMIT

A permit issued by the Board. It allows a person to be employed by a licensed heat technician to do heating work for which a permit is required, under the supervision of a journeyman heat technician.

EXAMINING BOARD OF HEAT TECHNICIANS

The Examining Board of Heat Technicians, or Board, as provided under Section 225-2.

HEAT TECHNICIAN

A person who has passed the examination given by the Examining Board of Heat Technicians and who holds a valid license issued in accordance with the provisions of this article.

There shall be two (2) classes of licenses to be known respectively as Class A and Class B as follows: Any person may upon the recommendation of the Board receive a Class B license covering a single job or installation, which license shall not be good for more than one (1) location or property nor for more than one (1) continuous job therein. All other persons engaged in the trade, business or calling of heating work in the City of Albany shall be required to obtain a Class A license.

JOURNEYMAN HEAT TECHNICIAN

A person who meets any of the following qualifications:

A. Five years' experience doing heating work for which a permit is required under the supervision of a licensed heat technician.

B. Four years' experience doing heating work for which a permit is required under the supervision of a licensed heat technician plus the equivalent of one year of schooling at an accredited trade school or in an approved apprentice training school.

JOURNEYMAN PERMIT

A permit issued by the Board. It allows a person with the requisite journeyman heat technician qualifications to supervise apprentice heat technicians as provided in this article.

PERSON

A natural person, corporation, partnership, association, joint venture or any other entity however termed.

§ 225-2. Examining Board of Heat Technicians.

A. There is hereby created a Board to be known as the "Examining Board of Heat Technicians," which shall consist of five (5) members, four (4) of which will be appointed by the Mayor and be residents of the City of Albany. Two (2) members shall be employing or master heat technicians of not less than ten (10) years' experience each. Two (2) members shall be practicing heat technicians in the City of Albany, and may have less than ten (10) years' experience each. The Chief Inspector of Heating for the City of Albany shall be the fifth member of said Board. When the Chief Inspector shall cease to hold his or her office by reason or on account of which he or she were so designated for appointment, his or her successor shall act on the Examining Board in his or her stead. The term of office for each member of such Board shall be three years from the first day of January following his appointment. Of members initially appointed, one shall be for a term of one year, one shall be for a term of two years, and two shall be for a term of three years. Vacancies occurring by expiration of term shall be filled by the Mayor for a full term. Vacancies by death, removal, inability to act, resignation or removal from the City of any member shall be filled by him for the unexpired term. Any member or members may be removed by the Mayor for malfeasance in office, incapacity or neglect in duty. Such Board shall elect its own Chairman and Secretary. A majority shall constitute a quorum to transact the business thereof. The Board shall meet at least once each month and shall have authority to hold special meetings if, in the opinion of the Chairman or a majority, such are desirable for the proper and efficient discharge of the business of such Board. It shall adopt such rules and regulations for the examination of all persons who desire to obtain a license as hereinafter required. The nature of the examinations to be conducted under this chapter shall be determined by the Examining Board, which shall examine the applicants as to their qualifications and fitness to receive a license to engage in the business of heating. Heat technicians and journeymen heat technicians serving as members of

such Board shall receive such compensation as shall be determined by the Board of Estimate and Apportionment.

B. The Examining Board of Heat Technicians shall have power and it shall be its duty to:

(1) Have jurisdiction over and examine all persons desiring or intending to engage in the trade, business or calling of heating work as employing or heat technicians in the City of Albany, with the power to examine persons applying for licenses as such employing or master heat technicians or as inspectors of heating to determine their fitness and qualifications for conducting the business of heat technicians or to act as inspector of heating and issue licenses to all such persons who shall have passed said examination before such Board and shall be, by it, determined to be qualified for conducting business as employing or heat technicians or competent to act as inspectors of heating.

(2) Formulate, in conjunction with the local Board of Health, a code of rules regulating the work of heating in the City of Albany, including the materials, workmanship and manner of execution of such work, and from time to time add to, amend or alter the same.

(3) Charge and collect from each person applying for examination the sum of \$100 for each examination made by such Board, and all moneys so collected shall be paid over by the Board monthly to the City Treasurer.

(4) Have jurisdiction over and issue apprentice training and journeyman identification cards. An apprentice training identification card allows a person to be employed by a licensed heat technician to do heating work under the supervision of a licensed heat technician. A journeyman identification card allows a person with the requisite journeyman heating qualifications to install heating apparatus, conveyances or equipment under the supervision of a licensed heat technician.

(5) Adopt rules and regulations to govern its actions in exercising its powers and duties. A majority vote of the whole Board is required for the adoption or amendment of any rule or regulation. Twenty days' written notice of any proposed amendments to the rules and regulations must be given to all Board members.

§ 225-3. Meetings of Board.

The Examining Board of Heat Technicians shall meet during the three months after the enactment of this chapter and as often as necessary to consider all applications received by it. Thereafter the Board shall meet within 10 days of the receipt of any application from the Administrator. Final action upon any application shall be made by the Board within three weeks after the receipt of the same, and during said three weeks the Administrator, upon the recommendation of the Board, shall grant working permits pending examination.

§ 225-4. Examination for heat technician's license required.

Every person desiring to engage in any business or perform any work for which a heat technician's license is required and who has the experience required herein for doing so shall appear before the Examining Board of Heat Technicians and pass an examination as to his or her qualifications and competency for the class of license desired by him or her as required by the provisions of this chapter.

§ 225-5. Deposit for examination.

A deposit equal to the fee for the current calendar year must accompany each application for examination. In case the candidate passes the examination, such deposit shall be retained to cover examination and fee for the current calendar year.

§ 225-6. Application for license.

All applications for a license accompanied with the proper fees shall be presented to the Administrator, who shall, when the license is finally granted by the Examining Board of Heat Technicians, pay into the treasury of the City of Albany the amount of such fees so received by said Administrator.

§ 225-7. Grading of examinations; issuance of license.

A. The Examining Board of Heat Technicians shall grade all examinations with not less than two (2) members present, participating in and concurring with the gradings. The Board shall certify to the Administrator the name of each applicant passing an examination and the grade of license for which he was qualified. A minimum grade of seventy percent (70%) shall be required as a passing grade.

B. Upon such certification and the payment of the prescribed fee and evidence of insurance where insurance is required, the applicant shall be issued a license of the grade for which he or she has been certified, which license shall be signed by the Administrator.

§ 225-8. Frequency of examinations; reexaminations.

A. The Examining Board of Heat Technicians shall conduct examinations at least once each calendar year and in no case more than 12 months from the date of the last test. The Board may conduct tests more frequently as in its determination is appropriate.

B. Applicants failing their first test may be reexamined at the next scheduled test. Applicants failing more than one test may be reexamined at yearly intervals only.

§ 225-9. Period of time to obtain license.

An applicant who has passed an examination for any grade of license must obtain the license by paying the prescribed fee within 30 days of receiving notice of passing said test. Failure to do so will require the applicant to again qualify himself or herself by passing another examination.

§ 225-10. Notification of examination grade; review of examination.

The Examining Board of Heat Technicians shall notify by mail any applicant of his or her grade within 10 days of the examination. Applicants failing the examination may review their tests at the Building Department for a period of 30 days after receiving notice of failure. All tests will be destroyed after the thirty-day period.

§ 225-11. Qualifications for Class A heat technician's license.

- A. Applicants for the master heat technician's license examination must meet the following qualifications;
1. They must pay the prescribed fee.
 2. They must possess the following training or experience, said experience defined as 1,800 work hours constitutes one (1) year of experience:
 - a. Either seven (7) years' practical experience under the supervision of a licensed heat technician performing work for which a heat permit is required; or
 - b. A degree from an accredited trade school and at least five (5) years of practical experience under the supervision of a licensed heat technician performing heating work for which a permit is required in the City of Albany; or
 - c. A certificate from a New York State approved apprenticeship program, with in-service training totaling 5,000 hours and at least two (2) years of practical experience under the supervision of a licensed heat technician performing heating work for which a permit is required in the City of Albany; or
 - d. A heat technician's license issued by another licensing jurisdiction, with evidence that the applicant has continuous practical experience under that license for at least ten (10) years; or
 - e. Such other schooling or training which the Board finds to be substantially equivalent to any of the above plus the requisite number of years of practical experience under the su-

pervision of a licensed heat technician, so that the time of training plus practical experience is seven (7) years. Under this subsection, however, for at least three (3) of the seven (7) years the applicant must have been performing heating work under the supervision of a licensed heat technician for which a permit would have been required.

B. The Examining Board of Heat Technicians, by rule or regulation, shall set forth the types of proof required to prove an applicant's qualifications. Under this section, the experience required may have been under a heat technician's licensed by another jurisdiction whose requirements are substantially similar to those required by this article. Although various forms of proof of training and experience may be found acceptable to the Board, the following are typically considered acceptable:

1. Notarized testimony from a licensed heat technician, listing dates, duration and total hours worked by the applicant.
2. Official school transcripts.
3. Apprenticeship training certificate.
4. Payroll records or pay stubs with hours worked.
5. Copies of a heat technician's license issued to the applicant by another licensing jurisdiction, along with an itemization of that jurisdiction's requirements for licensing.
6. Copies of approvals of work issued to the applicant from a recognized inspection agency, listing the work performed and the dates completed.

The Board specifically reserves the right to accept or reject any of the above items as substantiation of an applicant's qualification. Any proof of training or experience must clearly identify the applicant and the individual, agency or institution issuing the document. Documents must be accompanied by dates of service, contact information of the individual, agency or institution and the contact information of an individual familiar with the applicant's work or schooling.

§ 225-12. Issuance of Class A heat technician's license.

Upon certification by the Examining Board of Heat Technicians that an applicant has met all the qualifications to be issued a Class A heat technician's license or a Class B heat technician's license, the Director of the Division of Buildings and Codes shall issue said applicant a Class A heat technician's license or Class B heat technician's license, as the case may be.

§ 225-13. Apprentice and journeyman permits.

The Examining Board of Heat Technicians may, at its discretion, require the issuance of individual permits for apprentice and journeyman heat technicians working in the City of Albany. The Board shall promulgate the qualifications required, terms under which such permits may be issued and the fees associated with such permits.

§ 225-14. Qualifications for Class B heat technician's license.

A. In lieu of passing the examination given by the Examining Board of Heat Technicians, an individual may apply for a Class B heat technician's license. The applicant must present to the Board satisfactory evidence that he or she possesses all the qualifications for a Class A heat technician's license as set forth in Section 225-12. In addition the applicant must also:

1. Possess a master heat technician's license issued by another licensing jurisdiction whose requirements for licensing are substantially equivalent to those set forth in Section 171-32; and
2. demonstrate that he or she has performed work continuously under the license issued by the other jurisdiction for a period of not less than ten (10) consecutive years.

- B. The Board may accept or reject any evidence of qualification submitted by the applicant. The Board may accept or reject any applicant for a Class B heat technician's license, regardless of the applicant's qualifications.

§ 225-15. Insurance requirements.

- A. All holders of heat technician's licenses shall carry workmen's compensation insurance, unemployment compensation insurance and disability insurance when required by law.
- B. All holders of such licenses shall furnish proof of bodily injury, public liability and property damage insurance, exclusive of motor vehicles, of not less than one hundred thousand dollars (\$100,000.) for one (1) person injured in any one (1) accident and three hundred thousand dollars (\$300,000.) for more than one (1) person injured in any one (1) accident and property damage insurance of not less than one hundred thousand dollars (\$100,000.) per accident.
- C. Proof of required insurance shall be submitted to the Examining Board of Heat Technicians at the time of the issuance or renewal of the license.
- D. If a holder of a Class A heat technician's licenses be regarded as having an inactive status by the Board, the license holder shall not be obligated to fulfill the above while said license holder is inactive in the City of Albany.

§ 225-16. Licenses issued to entities other than individuals.

- A. Class A licenses issued in the name of entities other than individuals shall also designate the name of the licensed heat technician who actually holds the license.
- B. Such Class A licensed heat technician shall be an officer, partner or employee of the firm to which the license is issued.
- C. The same person shall not hold more than one heat technician's license.
- D. In the event that the Class A licensed heat technician who holds an entity's license in his name becomes no longer employed by or associated with said entity, such change in circumstance shall be reported to the Administrator within 30 days of said change. The report must be made by both the entity and the actual license holder. At that time, the entity must certify to the Examining Board of Heat Technicians the name of another Class A licensed heat technician who shall hold the entity's license in his name.
- E. For good cause shown, the Board may extend the time in which an entity must certify the name of the licensed heat technician who will hold their license. No extensions shall total more than one year.

§ 225-17. License not transferable.

No license granted under this chapter shall be transferable.

§ 225-18. Employment of unlicensed heat technicians.

It shall be unlawful for any person to employ an unlicensed heat technician to do any heating work in the City of Albany.

§ 225-19. Unauthorized use of title.

It shall be unlawful for any person to hold himself out to the public as a heat technician licensed by the City of Albany unless he or she possesses a valid heat technician's license issued by the City of Albany.

§ 225-20. Penalties for offenses.

A. In addition to the penalties prescribed below, the Administrator, upon recommendation of the Examining Board of Heat Technicians, may suspend or revoke any heat technician's license issued pursuant to this article for violations of any provisions of this article or any other City ordinance, local law, state law or rule or regulation of the Board with which said license holder must comply as a heat technician.

B. Any person violating any provision of this chapter shall be guilty of an offense punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding 15 days, or by both such fine and imprisonment, or for a civil penalty not exceeding \$1,000 to be recovered by the City of Albany in a civil action.

C. The City of Albany, in addition to any other penalties provided for, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or to restrain by injunction the violation of, any provision of this article.

§ 225-21. Suspension or revocation of license; hearings.

A. Any person charged with the violation of any provision of this chapter or of any City ordinance with which a licensed heat technician must comply has the right to notice of the charges in writing and an opportunity to be heard.

B. Hearings shall be held before three members of the Examining Board of Heat Technicians. If a majority of the Board members hearing the case finds that the person charged has committed the violations, it may recommend to the Administrator that said person's heating license be suspended or revoked. Where the person charged has no heat technician's license, the recommendation may be to suspend the person's right to apply for a heat technician's license.

C. Upon recommendation of the Board, the Administrator may suspend or revoke a person's heating license as follows:

- (1) For the first offense: up to a maximum of six months.
- (2) For the second offense within one year: up to a maximum of one year.
- (3) For the third offense within one year: up to a permanent revocation.

D. During a suspension or revocation, the license shall be null and void. After the termination of the period of a suspension, such license shall become valid upon tender of any renewal fees that have become due. Upon permanent revocation, said license holder shall not be allowed to reapply thereafter.

E. The suspension or revocation penalties are in addition to any penalties imposed by the Court.

§ 225-22. Notice of violation of rules.

Whenever any inspector or other person reports a violation of any such rules and regulations for heating or a deviation from any approved plan or specification for heating work filed with any board or department, the Administrator shall first serve a notice of the violation thereof upon the heat technician doing the work. Such notice may be served personally or by mail, and, if by mail, it may be addressed to such heat technician. Unless the violation is removed within three days after the day of serving or mailing such notice exclusive of the day of service or mailing such notice, the Administrator may proceed according to law.

§ 225-23. Inspectors of heating.

The Administrator shall appoint inspectors of heating in the City of Albany, one (1) of whom shall be designated as chief inspector. They shall be practical heat technicians and shall not be engaged directly or indirectly in the business of heating during the period of their appointment. Before entering upon the discharge of their duties as such inspectors they shall be required to obtain a certificate of competency from said Examining Board of Heat Technicians. They shall be entitled to receive compensation to be fixed by the Board of Estimate

and Apportionment. The inspectors of heating appointed under the provisions of this section, in addition to the duties prescribed by law or ordinance and those which may be enjoined or required by the Commissioner of the Department of Buildings of the City of Albany, shall inspect the construction and alteration of all heating work performed in the City of Albany and report in writing the results of such inspection to the Commissioner of the Department of Buildings. They shall also report in such manner any person engaged in or carrying on the business of employing heat technician without having obtained a license as herein provided.

§ 225-24. Heating permits; inspections.

- A. For work to be done in the City of Albany, it shall be unlawful for any person to contract for, allow or perform the installation of heating apparatus or equipment unless:
 - 1. Prior to any such installation the proper heating permit is obtained from the Administrator; and
 - 2. The work is performed by or under the supervision of a licensed heat technician, so long as said work is done by an employee of the licensed heat technician.
- B. A heating permit shall be issued only to a licensed heat technician.
- C. It shall be unlawful for a person to employ anyone who is not a licensed heat technician to perform heating work for which a permit is required.
- D. Work shall not be deemed approved until such time as an inspector employed by the City of Albany's Bureau of Buildings shall inspect the installation, extension or alteration of heating apparatus, conveyances or equipment for which a permit is required.
- E. A final inspection of finished work shall be performed to close out all heating permits. If a license holder fails to schedule or arrange for a final inspection of the work, the license holder may be brought before the Examining Board of Heat Technicians to show cause. If it is determined that the license holder cannot provide adequate cause for failure to close out the permit, the license may be revoked or suspended. If through no fault of the license holder, the inspector cannot gain access to the premises to inspect the work, the property owner shall be required to allow entry to perform the inspection.
- G. The City of Albany will apply the standards set forth by the most current addition of the New York State Building Code when conducting inspections.
- H. Inspection requests shall be made by the permit holder only.

§ 225-25. Severability.

If any portion of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the portion thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 2. This ordinance shall take effect thirty (30) days after passage.

**Note: There was discussion from Council Member Igoe stating that there was thorough discussion of this ordinance at the committee meeting and that this is a safety issue. There was discussion from Council Member Calsolaro stating that he has issues with this legislation and the plumbing legislation. He discussed this legislation needing more discussion and his concern that it was adding more layers to the process. There was discussion from Council Member Conti stating that he would be voting no due to concerns with the proposals the need for further review. There was discussion from Council Member Rosenzweig stating that this is a safety issue and that Albany has a unique housing stock and if there are incorrect installations, it put people at risk. He*

stated both sides have good points. There was discussion from Council Member Igoe thanking Council Members for their opinion and apologized for the legislation sitting on the agenda for so long, but felt it was a step in the right direction.

Having failed to receive a majority, the motion was not passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Casey, Herring, Igoe, O'Brien, Rosenzweig, Sano, and Scalzo

Negative -- Calsolaro, Conti, Fahey, McLaughlin, Smith and Timmons

Present -- Ellis

Affirmative 7 Negative 6 Abstain 0 Present 1

Council Members Rosenzweig and Igoe moved to amend Ordinance 48.62.09, and as amended asked for passage and a roll call vote thereon:

Ordinance Number 48.62.09 (as amended)

AN ORDINANCE ESTABLISHING A NEW CHAPTER 261 (PLUMBING) OF THE CODE OF THE CITY OF ALBANY

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Chapter 261 of the Code of the City of Albany entitled "Plumbing" is hereby repealed in its entirety and a new Chapter 261 entitled "Plumbing" is hereby added to read as follows:

CHAPTER 261. PLUMBING

§ 261-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADMINISTRATOR

The Director of the Building Department or his/her designee.

APPRENTICE

A person employed by a licensed plumber performing plumbing work for which a permit is required under the direct and immediate supervision of a journeyman plumber. An "apprentice" must be at least 18 years of age.

APPRENTICE TRAINING PERMIT

A permit issued by the Board. It allows a person to be employed by a licensed plumber to do plumbing work for which a permit is required, under the supervision of a journeyman plumber.

EXAMINING BOARD OF PLUMBERS

The Examining Board of Plumbers, or Board, hereinafter provided to be appointed by the Mayor of the City of Albany.

JOURNEYMAN PLUMBER

A person who meets any of the following qualifications:

A. Five years' experience doing plumbing work for which a permit is required under the supervision of a licensed plumber.

B. Four years' experience doing plumbing work for which a permit is required under the supervision of a licensed plumber plus the equivalent of one year of schooling at an accredited trade school or in an approved apprentice training school.

JOURNEYMAN PERMIT

A permit issued by the Board. It allows a person with the requisite journeyman plumber qualifications to supervise apprentice plumbers as provided in this article.

PLUMBER

A person who has passed the examination given by the Examining Board of Plumbers and who holds a valid license issued in accordance with the provisions of this article.

There shall be two (2) classes of licenses to be known respectively as Class A and Class B as follows: Any person may upon the recommendation of the Examining Board receive a Class B license covering a single job or installation, which license shall not be good for more than one (1) location or property nor for more than one (1) continuous job therein. All other persons engaged in the trade, business or calling of plumbing in the City of Albany shall be required to obtain a Class A license.

PERSON

A natural person, corporation, partnership, association, joint venture or any other entity however termed.

§ 261-2. Examining Board of Plumbers.

A. There is hereby created a Board to be known as the "Examining Board of Plumbers," which shall consist of five (5) members, who are residents of the City of Albany, to be appointed by the Mayor, of whom two (2) and only two (2) shall be an employing or master plumber of not less than ten (10) years' experience each, and one (1) and only one (1) of whom shall be a journeyman plumber. The remaining members shall be the Chief Inspector of Plumbing for the City of Albany and the engineer having charge of sewers in and for the City of Albany. The term of office for each member of such Board shall be three years from the first day of January following his appointment. Of members initially appointed, one shall be for a term of one year, one shall be for a term of two years, and one shall be for a term of three years. Vacancies occurring by expiration of term shall be filled by the Mayor for a full term. Vacancies by death, removal, inability to act, resignation or removal from the City of any member shall be filled by him for the unexpired term. The Chief Inspector of Plumbing and Drainage and the engineer in charge of sewers shall be ex officio members of such Board, and when they shall cease to hold their offices by reason or on account of which they were so designated for appointment, their successors shall act on the Examining Board in their stead. Any member or members may be removed by the Mayor for malfeasance in office, incapacity or neglect in duty. Such Board shall elect its own Chairman and Secretary. A majority shall constitute a quorum to transact the business thereof. The Board shall meet at least once each month and shall have authority to hold special meetings if, in the opinion of the Chairman or a majority, such are desirable for the proper and efficient discharge of the business of such Board. It shall adopt such rules and regulations for the examination of all persons who desire to obtain a license as hereinafter required. The nature of the examinations to be conducted under this chapter shall be determined by the Examining Board, which shall examine the applicants as to their qualifications and fitness to receive a license to engage in the business of plumbing. Plumbers and journeymen plumbers serving as members of such Board shall receive such compensation as shall be determined by the Board of Estimate and Apportionment.

B. The Examining Board of Plumbers shall have power and it shall be its duty to:

(1) Have jurisdiction over and examine all persons desiring or intending to engage in the trade, business or calling of plumbing as employing or plumbers in the City of Albany, with the power to examine persons applying

for licenses as such employing or master plumbers or as inspectors of plumbing to determine their fitness and qualifications for conducting the business of plumbers or to act as inspector of plumbing and issue licenses to all such persons who shall have passed said examination before such Board and shall be, by it, determined to be qualified for conducting business as employing or plumbers or competent to act as inspectors of plumbing.

(2) Formulate, in conjunction with the local Board of Health, a code of rules regulating the work of plumbing and drainage in the City of Albany, including the materials, workmanship and manner of execution of such work, and from time to time add to, amend or alter the same.

(3) Charge and collect from each person applying for examination the sum of \$100 for each examination made by such Board, and all moneys so collected shall be paid over by the Board monthly to the City Treasurer.

(4) Have jurisdiction over and issue apprentice training and journeyman identification cards. An apprentice training identification card allows a person to be employed by a licensed plumber to do plumbing work under the supervision of a licensed plumber. A journeyman identification card allows a person with the requisite journeyman plumbing qualifications to install plumbing under the supervision of a licensed plumber.

(5) Adopt rules and regulations to govern its actions in exercising its powers and duties. A majority vote of the whole Board is required for the adoption or amendment of any rule or regulation. Twenty days' written notice of any proposed amendments to the rules and regulations must be given to all Board members.

§ 261-3. Meetings of Board.

The Examining Board of Plumbers shall meet during the three months after the enactment of this chapter and as often as necessary to consider all applications received by it. Thereafter the Examining Board of Plumbers shall meet within 10 days of the receipt of any application from the Administrator. Final action upon any application shall be made by the Examining Board of Plumbers within three weeks after the receipt of the same, and during said three weeks the Administrator, upon the recommendation of the Examining Board of Plumbers, shall grant working permits pending examination.

§ 261-4. Examination for plumber's license required.

Every person desiring to engage in any business or perform any work for which a plumber's license is required and who has the experience required herein for doing so shall appear before the Examining Board of Plumbers and pass an examination as to his or her qualifications and competency for the class of license desired by him or her as required by the provisions of this chapter.

§ 261-5. Deposit for examination.

A deposit equal to the fee for the current calendar year must accompany each application for examination. In case the candidate passes the examination, such deposit shall be retained to cover examination and fee for the current calendar year.

§ 261-6. Application for license.

All applications for a license accompanied with the proper fees shall be presented to the Administrator, who shall, when the license is finally granted by the Examining Board of Plumbers, pay into the treasury of the City of Albany the amount of such fees so received by said Administrator.

§ 261-7. Grading of examinations; issuance of license.

A. The Examining Board of Plumbers shall grade all examinations with not less than two (2) members present, participating in and concurring with the gradings. The Board shall certify to the Administrator the name of each applicant passing an examination and the grade of license for which he was qualified. A minimum grade of seventy percent (70%) shall be required as a passing grade.

B. Upon such certification and the payment of the prescribed fee and evidence of insurance where insurance is required, the applicant shall be issued a license of the grade for which he or she has been certified, which license shall be signed by the Administrator.

§ 261-8. Frequency of examinations; reexaminations.

A. The Examining Board of Plumbers shall conduct examinations at least once each calendar year and in no case more than 12 months from the date of the last test. The Board may conduct tests more frequently as in its determination is appropriate.

B. Applicants failing their first test may be reexamined at the next scheduled test. Applicants failing more than one test may be reexamined at yearly intervals only.

§ 261-9. Period of time to obtain license.

An applicant who has passed an examination for any grade of license must obtain the license by paying the prescribed fee within 30 days of receiving notice of passing said test. Failure to do so will require the applicant to again qualify himself or herself by passing another examination.

§ 261-10. Notification of examination grade; review of examination.

The Examining Board of Plumbers shall notify by mail any applicant of his or her grade within 10 days of the examination. Applicants failing the examination may review their tests at the Building Department for a period of 30 days after receiving notice of failure. All tests will be destroyed after the thirty-day period.

§ 261-11. Qualifications for Class A plumber's license.

A. Applicants for the master plumber's license examination must meet the following qualifications;

1. They must pay the prescribed fee.
2. They must possess the following training or experience, said experience defined as 1,800 work hours constitutes one (1) year of experience:
 - a. Either seven (7) years' practical experience under the supervision of a licensed plumber performing work for which a plumbing permit is required; or
 - b. A degree from an accredited trade school and at least five (5) years of practical experience under the supervision of a licensed plumber performing plumbing work for which a permit is required in the City of Albany; or
 - c. A certificate from a New York State approved apprenticeship program, with in-service training totaling 5,000 hours and at least two (2) years of practical experience under the supervision of a licensed plumber performing plumbing work for which a permit is required in the City of Albany; or
 - d. A plumber's license issued by another licensing jurisdiction, with evidence that the applicant has continuous practical experience under that license for at least ten (10) years; or
 - e. Such other schooling or training which the Board finds to be substantially equivalent to any of the above plus the requisite number of years of practical experience under the supervision of a licensed plumber, so that the time of training plus practical experience is seven (7) years. Under this subsection, however, for at least three (3) of the seven (7) years the applicant must have been performing plumbing work under the supervision of a licensed plumber for which a permit would have been required.

B. The Examining Board of Plumbers, by rule or regulation, shall set forth the types of proof required to prove an applicant's qualifications. Under this section, the experience required may have been under a plumber's licensed by another jurisdiction whose requirements are substantially similar to those required

by this article. Although various forms of proof of training and experience may be found acceptable to the Board, the following are typically considered acceptable:

1. Notarized testimony from a licensed plumber, listing dates, duration and total hours worked by the applicant.
2. Official school transcripts.
3. Apprenticeship training certificate.
4. Payroll records or pay stubs with hours worked.
5. Copies of a plumber's license issued to the applicant by another licensing jurisdiction, along with an itemization of that jurisdiction's requirements for licensing.
6. Copies of approvals of work issued to the applicant from a recognized inspection agency, listing the work performed and the dates completed.

The Board specifically reserves the right to accept or reject any of the above items as substantiation of an applicant's qualification. Any proof of training or experience must clearly identify the applicant and the individual, agency or institution issuing the document. Documents must be accompanied by dates of service, contact information of the individual, agency or institution and the contact information of an individual familiar with the applicant's work or schooling.

§ 261-12. Issuance of Class A plumber's license.

Upon certification by the Examining Board of Plumbers that an applicant has met all the qualifications to be issued a Class A plumber's license or a Class B plumber's license, the Director of the Division of Buildings and Codes shall issue said applicant a Class A plumber's license or Class B plumber's license, as the case may be.

§ 261-13. Apprentice and journeyman permits.

The Examining Board of Plumbers may, at its discretion, require the issuance of individual permits for apprentice and journeyman plumbers working in the City of Albany. The Board shall promulgate the qualifications required, terms under which such permits may be issued and the fees associated with such permits.

§ 261-14. Qualifications for Class B plumber's license.

A. In lieu of passing the examination given by the Examining Board of Plumbers, an individual may apply for a Class B plumber's license. The applicant must present to the Board satisfactory evidence that he or she possesses all the qualifications for a Class A plumber's license as set forth in Section 261-12. In addition the applicant must also:

1. Possess a master plumber's license issued by another licensing jurisdiction whose requirements for licensing are substantially equivalent to those set forth in Section 171-32; and
2. demonstrate that he or she has performed work continuously under the license issued by the other jurisdiction for a period of not less than ten (10) consecutive years.

B. The Board may accept or reject any evidence of qualification submitted by the applicant. The Board may accept or reject any applicant for a Class B plumber's license, regardless of the applicant's qualifications.

§ 261-15. Insurance requirements.

A. All holders of plumber's licenses shall carry workmen's compensation insurance, unemployment compensation insurance and disability insurance when required by law.

B. All holders of such licenses shall furnish proof of bodily injury, public liability and property damage insurance, exclusive of motor vehicles, of not less than one hundred thousand dollars (\$100,000.) for one (1) person injured in any one (1) accident and three hundred thousand dollars (\$300,000.) for more

than one (1) person injured in any one (1) accident and property damage insurance of not less than one hundred thousand dollars (\$100,000.) per accident.

- C. Proof of required insurance shall be submitted to the Examining Board of Plumbers at the time of the issuance or renewal of the license.
- D. If a holder of a Class A plumber's licenses be regarded as having an inactive status by the Board, the license holder shall not be obligated to fulfill the above while said license holder is inactive in the City of Albany.

§ 261-16. Licenses issued to entities other than individuals.

A. Class A licenses issued in the name of entities other than individuals shall also designate the name of the licensed plumber who actually holds the license.

B. Such Class A licensed plumber shall be an officer, partner or employee of the firm to which the license is issued.

C. The same person shall not hold more than one plumber's license.

D. In the event that the Class A licensed plumber who holds an entity's license in his name becomes no longer employed by or associated with said entity, such change in circumstance shall be reported to the Administrator within 30 days of said change. The report must be made by both the entity and the actual license holder. At that time, the entity must certify to the Examining Board of Plumbers the name of another Class A licensed plumber who shall hold the entity's license in his name.

E. For good cause shown, the Board may extend the time in which an entity must certify the name of the licensed plumber who will hold their license. No extensions shall total more than one year.

§ 261-17. License not transferable.

No license granted under this chapter shall be transferable.

§ 261-18. Employment of unlicensed plumbers.

It shall be unlawful for any person to employ an unlicensed plumber to do any plumbing work in the City of Albany.

§ 261-19. Unauthorized use of title.

It shall be unlawful for any person to hold himself out to the public as a plumber licensed by the City of Albany unless he or she possesses a valid plumber's license issued by the City of Albany.

§ 261-20. Penalties for offenses.

A. In addition to the penalties prescribed below, the Administrator, upon recommendation of the Examining Board of Plumbers, may suspend or revoke any plumber's license issued pursuant to this article for violations of any provisions of this article or any other City ordinance, local law, state law or rule or regulation of the Board with which said license holder must comply as a plumber.

B. Any person violating any provision of this chapter shall be guilty of an offense punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding 15 days, or by both such fine and imprisonment, or for a civil penalty not exceeding \$1,000 to be recovered by the City of Albany in a civil action.

C. The City of Albany, in addition to any other penalties provided for, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or to restrain by injunction the violation of, any provision of this article.

§ 261-21. Suspension or revocation of license; hearings.

A. Any person charged with the violation of any provision of this chapter or of any City ordinance with which a licensed plumber must comply has the right to notice of the charges in writing and an opportunity to be heard.

B. Hearings shall be held before three members of the Examining Board of Plumbers. If a majority of the Board members hearing the case finds that the person charged has committed the violations, it may recommend to the Administrator that said person's plumbing license be suspended or revoked. Where the person charged has no plumber's license, the recommendation may be to suspend the person's right to apply for a plumber's license.

C. Upon recommendation of the Board, the Administrator may suspend or revoke a person's plumbing license as follows:

- (1) For the first offense: up to a maximum of six months.
- (2) For the second offense within one year: up to a maximum of one year.
- (3) For the third offense within one year: up to a permanent revocation.

D. During a suspension or revocation, the license shall be null and void. After the termination of the period of a suspension, such license shall become valid upon tender of any renewal fees that have become due. Upon permanent revocation, said license holder shall not be allowed to reapply thereafter.

E. The suspension or revocation penalties are in addition to any penalties imposed by the Court.

§ 261-22. Notice of violation of rules.

Whenever any inspector or other person reports a violation of any such rules and regulations for plumbing and drainage or deviation from any approved plan or specification for plumbing or drainage filed with any board or department, the Administrator shall first serve a notice of the violation thereof upon the plumber doing the work. Such notice may be served personally or by mail, and, if by mail, it may be addressed to such plumber. Unless the violation is removed within three days after the day of serving or mailing such notice exclusive of the day of service or mailing such notice, the Administrator may proceed according to law.

§ 261-23. Inspectors of plumbing.

The Administrator shall appoint inspectors of plumbing in the City of Albany, one (1) of whom shall be designated as chief inspector. They shall be practical plumbers and shall not be engaged directly or indirectly in the business of plumbing during the period of their appointment. Before entering upon the discharge of their duties as such inspectors they shall be required to obtain a certificate of competency from said Examining Board of Plumbers. They shall be entitled to receive compensation to be fixed by the Board of Estimate and Apportionment. The inspectors of plumbing appointed under the provisions of this section, in addition to the duties prescribed by law or ordinance and those which may be enjoined or required by the Commissioner of the Department of Buildings of the City of Albany, shall inspect the construction and alteration of all plumbing work performed in the City of Albany and report in writing the results of such inspection to the Commissioner of the Department of Buildings. They shall also report in such manner any person engaged in or carrying on the business of employing plumber without having obtained a license as herein provided.

§ 261-24. Plumbing permits; inspections.

A. For work to be done in the City of Albany, it shall be unlawful for any person to contract for, allow or perform the installation of plumbing apparatus or equipment unless:

1. Prior to any such installation the proper plumbing permit is obtained from the Administrator; and
 2. The work is performed by or under the supervision of a licensed plumber, so long as said work is done by an employee of the licensed plumber.
- B. A plumbing permit shall be issued only to a licensed plumber.
- C. It shall be unlawful for a person to employ anyone who is not a licensed plumber to perform plumbing work for which a permit is required.
- D. Work shall not be deemed approved until such time as a plumbing inspector employed by the City of Albany's Bureau of Buildings shall inspect the installation, extension or alteration of plumbing apparatus or equipment for which a permit is required.
- E. A final inspection of finished work shall be performed to close out all plumbing permits. If a license holder fails to schedule or arrange for a final inspection of the work, the license holder may be brought before the Examining Board of Plumbers to show cause. If it is determined that the license holder cannot provide adequate cause for failure to close out the permit, the license may be revoked or suspended. If through no fault of the license holder, the inspector cannot gain access to the premises to inspect the work, the property owner shall be required to allow entry to perform the inspection.
- G. The City of Albany will apply the standards set forth by the most current addition of the New York State Building Code when conducting inspections.
- H. Inspection requests shall be made by the permit holder only.

§ 261-25. Severability.

If any portion of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the portion thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 2. This ordinance shall take effect thirty (30) days after passage.

Having failed to receive a majority, the motion was not passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Casey, Herring, Igoe, O'Brien, Rosenzweig, Sano, and Scalzo

Negative -- Calsolaro, Conti, Fahey, McLaughlin, Smith and Timmons

Present -- Ellis

Affirmative 7 Negative 6 Abstain 0 Present 1

Council Member Sano asked for passage of Ordinance Number 71.121.09 (AN ORDINANCE AMENDING ORDINANCE 11.21.09 ENTITLED "AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$175,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$175,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (GARBAGE TRUCK)" TO AMEND THE MAXIMUM ESTIMATED COST TO \$185,000), which had been previously introduced.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Member Sano asked for passage of Ordinance Number 72.121.09 (AN ORDINANCE AMENDING ORDINANCE 18.21.09 ENTITLED "AN ORDINANCE AUTHORIZING CERTAIN PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$90,000.00 AND AUTHORIZING THE LEASE FINANCING OR THE ISSUANCE OF \$90,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF (FORESTER TRUCK)" TO AMEND THE MAXIMUM ESTIMATED COST TO \$80,000), which had been previously introduced.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

The remaining ordinances on the pending agenda were held at the request of Council Member Conti.

CONSIDERATION OF RESOLUTIONS

Council Member Scalzo introduced the following, asked for passage and a roll call vote thereon:

Resolution Number 98.122.09R

A RESOLUTION OF THE COMMON COUNCIL RECOGNIZING ALBANY POLICE OFFICERS UNION LOCAL 2841 COUNCIL 82 AFSCME AFL-CIO AS THE NEGOTIATING AGENT FOR CRIME ANALYST EMPLOYEES IN THE POLICE DEPARTMENT

RESOLVED, That the City of Albany recognize the Albany Police Officers Local Union 2841 Law Enforcement Officers Union Council 82 AFSCME AFL-CIO as the negotiating agent for the Crime Analyst employees in the Albany Police Department.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Member Scalzo introduced the following, asked for passage and a roll call vote thereon:

Resolution Number 99.122.09R

A RESOLUTION OF THE COMMON COUNCIL RECOGNIZING ALBANY POLICE OFFICERS UNION LOCAL 2841 COUNCIL 82 AFSCME AFL-CIO AS THE NEGOTIATING AGENT FOR CRIME ANALYST SUPERVISOR EMPLOYEES IN THE POLICE DEPARTMENT

RESOLVED, That the City of Albany recognize the Albany Police Officers Local Union 2841 Law Enforcement Officers Union Council 82 AFSCME AFL-CIO as the negotiating agent for the Crime Analyst Supervisor employees in the Albany Police Department.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Member Conti asked and received majority consent to add Resolution Numbers 100.122.09R, 101.122.09R, 102.122.09R, and 103.122.09R to the pending agenda, which was approved by unanimous voice vote.

Council Members Sano, Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, Rosenzweig, Scalzo, Smith and Timmons introduced the following resolution, asked for passage and a roll call vote thereon:

RESOLUTION NUMBER 100.122.09R (MC) (As Amended Prior to Introduction)

RESOLUTION URGING THE END OF STEREOTYPING OF ITALIAN-AMERICANS AND CALLING UPON MTV TO CANCEL FURTHER PROGRAMMING OF THE "JERSEY SHORE"

WHEREAS, the Italian-American community is the second largest ethnic group in the City of Albany and has contributed greatly to its success; and

WHEREAS, movies and television continue to stereotype Italian-Americans and have done so for more than 70 years. A study done by the Italian Institute studied Hollywood films from 1928 to 2000 that featured Italian or Italian-American characters and concluded that an overwhelming 73 percent portrayed these Italian or Italian-American characters negatively; and

WHEREAS, a new show airing on the MTV television network entitled "Jersey Shore" depicts a group of young Italian-Americans as ignorant, violent, self-centered and lewd; and

WHEREAS, a national Italian-American organization based in New Jersey called the MTV reality show offensive and asked for its cancellation before it aired and Domino's Pizza has removed its ads from the programming; and

WHEREAS, the young in our community may be influenced by this unfortunate stereotype to the detriment of our city; and

WHEREAS, these stereotypes of Italian-Americans are not realistic and show the worst our society has to offer in young people; and

WHEREAS, stereotypes against any ethnic group are offensive and should not continually be promoted and marketed to young people; and

WHEREAS, the stereotypes of Italian-Americans portrayed in “Jersey Shore” do not represent our community. In the name of fairness and truth, we urge MTV and all others to represent a more balanced portrayal of Italian-Americans, whose long history of patriotism, industry and decency have earned them the same respect and dignity accorded to other ethnic, religious and racial groups.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany goes on record condemning the constant demeaning and demoralizing stereotyping of Italian-Americans by the media and the entertainment industry’s negative and unfair stereotyping of Italian-Americans and asks MTV to cancel further programming and showing of “Jersey Shore.”

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to MTV Networks and the Federal Communications Commission.

**Note: There was discussion from Council Member Sano stating that the show (Jersey Shore) is billed as “following these 12 guidos and guidettes” He discussed negative comments on Time Union blogs regarding this legislation. He discussed standing up for rights and not judging people by their nationality. There was discussion from Council Member O’Brien stating that he has not watched the show and that this type of legislation could apply to various shows and with saying that, where would it stop. There was discussion from Council Member Conti stating that he has memories of New Jersey shore. He discussed reading about an 11 year old who was bullied and called gay so much that they committed suicide. There was discussion from Council Member Smith stating that she would be voting in favor and that anytime someone stands up against hate and bigotry, they are criticized. There was discussion from Council Member Sano thanking Council Members for their support.*

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, Rosenzweig, Sano, Scalzo
Smith, and Timmons

Present -- O’Brien

Affirmative 13 Negative 0 Abstain 0 Present 1

Council Members Sano, Rosenzweig, Calsolaro, Casey, Conti, Herring, Igoe, O’Brien, and Scalzo offered the following, asked for passage and a roll call vote thereon:

RESOLUTION NUMBER 101.122.09R (MC)

RESOLUTION HONORING THE LATE JOHN GROGAN JR. FOR HIS CONTRIBUTIONS TO THE CITY OF ALBANY

WHEREAS, it is important for all residents of the City of Albany to take an active part in the city’s civic organizations and those who inspire others to take such an active role contribute to the well-being of all our citizens, and

WHEREAS, John Grogan Jr. was born and educated in Albany and was a 1945 graduate of Christian Brothers Academy. He served in the Pacific Theatre with the U.S. Navy during World War II, and

WHEREAS, John worked for Ashland Chemical in Rensselaer for 38 years and at the Albany County Jail for ten years before retiring, and

WHEREAS, he was past exalted ruler of the Rensselaer Lodge of Elks #2073 and a member of the Purchasing Agents Association, the Traffic Club and Knights of Columbus #173, and

WHEREAS, John was very active with National Little League and Central Babe Ruth in the City of Albany, helping numerous local children through these sports programs.

NOW, THEREFORE, BE IT RESOLVED, that the City of Albany Common Council recognizes the contributions of John Grogan Jr. to this city and mourns the passing of this energetic and involved citizen.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo, Smith and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Member Scalzo offered the following, asked for passage and a roll call vote thereon:

Resolution Number 102.122.09R(MC)

RESOLUTION OF THE COMMON COUNCIL RE-APPOINTING JEAN C. GANNON AS A MEMBER OF THE CITIZENS' POLICE REVIEW BOARD

NOW, THEREFORE, BE IT RESOLVED, that Jean C. Gannon be and hereby is appointed as a member of the Citizens' Police Review Board for a term of office expiring October 26, 2012.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo Smith, and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Members Scalzo and Calsolaro offered the following, asked for passage and a roll call vote thereon:

Resolution Number 103.122.09R(MC)

RESOLUTION OF THE COMMON COUNCIL APPOINTING AKOSUA G. YEBOAH AS A MEMBER OF THE CITIZENS' POLICE REVIEW BOARD

NOW, THEREFORE, BE IT RESOLVED, that Akosua G. Yeboah be and hereby is appointed as a member of the Citizens' Police Review Board for a term of office expiring October 26, 2012.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo Smith, and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Member Sano asked for passage of Resolution Number 93.121.09R(MC) (RESOLUTION OF THE COMMON COUNCIL CERTIFYING THE LOCAL ADJUSTMENTS TO THE ADJUSTED BASE PROPORTIONS OF THE HOMESTEAD AND NON-HOMESTEAD CLASSES FOR THE ALBANY CITY SCHOOL DISTRICT FOR SCHOOL TAX PURPOSES PURSUANT TO ARTICLE 19 OF THE REAL PROPERTY TAX LAW), which had been previously introduced.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo Smith, and Timmons

Affirmative 14 Negative 0 Abstain 0

Council Member Sano asked for passage of Resolution Number 94.121.09R(MC) (RESOLUTION OF THE COMMON COUNCIL ESTABLISHING THE LOCALLY-ADJUSTED BASE PROPORTIONS OF THE HOMESTEAD AND NON-HOMESTEAD CLASSES FOR PROPERTY TAX PURPOSES PURSUANT TO ARTICLE 19 OF THE REAL PROPERTY TAX LAW), which had been previously introduced.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative -- Calsolaro, Casey, Conti, Ellis, Fahey, Herring, Igoe, McLaughlin, O'Brien, Rosenzweig, Sano, Scalzo Smith, and Timmons

Affirmative 14 Negative 0 Abstain 0

The remaining resolutions on the pending agenda were held at the request of Council Member Conti.

MISCELLANEOUS AND UNFINISHED BUSINESS

Council Member Conti read from a letter from Council Member Fox and conveyed her apologies for not being present and her happy holiday wishes to all the Council Members.

Council Member McLaughlin acknowledged Council President Morris and thanked her for her friendship over the years. She presented Council President Morris with a gift. Council Members Conti and McLaughlin presented each outgoing Council Member with a plaque.

Council Member Conti acknowledged the incoming Council Members.

Council Member Ellis thanked the Council and the 3rd Ward for their support. He stated that he was honored to have held his position as Council Member.

ADJOURNMENT

A motion was made for adjournment.

Council President Morris stated, hearing no objections, that the Council was adjourned.

A true record of the Common Council Minutes of December 21st, 2009.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
ALBANY COMMON COUNCIL